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Job No. 330579

VOLUME 2
TEXAS HOUSE OF REPRESENTATIVES
COMMITTEE ON ELECTIONS
April 6, 2009

Transcribed: April 15, 2012



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1 CHAIRMAN SMITH: At this time, the chair
2 calls Dewayne Charleston, a Walker County Justice of Peace
3 who is here to testify against Senate Bill 362.

4 SPEAKER: Mr. Chairman, before we begin I
5 just want to clarify procedure with the committee. I'm
6 looking at the memorandum that was sent to committee
7 members on April 3rd regarding the committee hearings on
8 April 6th and 7th. We just had an exchange before the
9 prior witness related to time limits -- Mr. Leavitt,
10 specifically -- and in the one, two, three, fourth
11 paragraph on the memo it says, "As indicated on the post,
12 testimony at Monday's hearing will be limited to invited
13 guests. A witness list is attached. These witnesses will
14 be allowed to provide an opening presentation of up to 10
15 minutes and then stand before the committee to answer
16 questions.

17 When I read that, I didn't see anything
18 related to 30 minutes of total question time. It's my
19 understanding that you took the total number of witnesses
20 and divided that time by the time that we started and the
21 hours available before midnight and came to the conclusion
22 it would be 30 minutes, but I just wanted to point out for
23 the record that there was nothing in the memorandum that
24 said that there would be 30 minutes.

25 So, when you question my understanding of



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1 the deal, there's some ambiguity as to whether or not 30
2 minutes was the standard or not the standard. It's been
3 past practice on the committee with Chairman Burman that
4 we were able to ask questions -- all of our questions, and
5 I don't -- I don't believe that any member of the
6 committee has asked a question to date, and I think it's
7 important for the Democratic process and also to make the
8 record, to the extent the Frazier bill goes to the justice
9 Department, that we be able to ask our questions.

10 CHAIRMAN SMITH: To respond to that, the
11 memorandum that was circulated expressed my intent as to
12 how we would handle this hearing. I think it expressed it
13 as clearly as a memorandum could before we knew what time
14 the hearing would start because of the fact that we did
15 not have the ability to anticipate what time we would
16 leave the House floor. What the memorandum clearly says
17 is that it is my intention to conclude Monday's hearing no
18 later than midnight. No later than midnight. The reason
19 for my intention to do that was because -- for the
20 convenience of the public and their ability to testify on
21 this question, we have separated the invited testimony
22 from the public testimony and have no way of knowing but
23 reasonably anticipate in light of the significant interest
24 on this particular issue that we could go well into the
25 night listening to public testimony tomorrow night.



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1 And so, for the health of the members on
2 the committee as well as for the convenience of these
3 expert witnesses who have gone to the trouble in some
4 instances of traveling from many other parts of the
5 country, it was my intent to -- to take the time when we
6 started, divide it by the number of witnesses, and
7 distribute that time fairly among the members in terms of
8 their ability to ask questions.

9 I will note that the witness list is 13,
10 seven of which were provided by my friends on the
11 Democratic side of the aisle, six of which were provided
12 by my friends on the Republican side of the aisle. So, my
13 proposal would result in us being here until midnight and
14 would result in 40 more minutes' of testimony from expert
15 witnesses on the Democratic side of this issue than the
16 Republican side of this issue. If -- if anybody believes
17 that that is somehow unfair against those people who are
18 in opposition to Senate Bill 362, then, you know, I
19 suppose that that is a matter of opinion and everybody has
20 one, but I -- I certainly, you know, am open for
21 discussion on the committee to the extent that there are
22 any of my members -- I'm one of the younger members on the
23 committee. I think I can stay up all night two nights in
24 a row, although it's been a long time since I've tried.

25 If it is the desire of the committee to



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1 take the eight remaining witnesses that we have left and
2 the six hours and 15 minutes that we have left and allow
3 members to ask as many questions as they wish for whatever
4 purpose they wish and to ask of these expert witnesses to
5 stay until we are done along with the members of the
6 committee, then I am certainly open to a discussion along
7 those lines.

8 I do think that the proposal to take the
9 seven witnesses that were provided by the Democrats and
10 the six witnesses that were provided by my Republican
11 friends and divide the time up to midnight equally a fair
12 one. More than fair. If for whatever reason that's --

13 SPEAKER: Just two comments, Mr. Chairman.
14 It was expected that the Republicans would have seven
15 witnesses, as well, and one of them dropped out.

16 CHAIRMAN SMITH: But we took that time and
17 divided it equally among the witnesses rather than half
18 the time for the Democrats and half the time for the
19 Republicans.

20 SPEAKER: Let me finish just really
21 quickly. I would just like to finish. The inequity in
22 number of witnesses from Democrats and Republicans is
23 not -- is clearly not the fault of Democrats. We were
24 asked to provide seven. We provided seven. We thought
25 you were going to provide seven. You provided six.



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1 That's clearly not our fault.

2 The other assumption I think is worth
3 exploring is that very few of the witnesses have actually
4 used up all their time. I think one or two.

5 CHAIRMAN SMITH: I think there is one
6 witness that didn't use all his time because he was late
7 for a flight, and I believe I'm correct in saying there
8 was only one witness who didn't use up all their time
9 because of a lack of questions, and that was Ms. --

10 SPEAKER: Did the last witness use all
11 their time?

12 CHAIRMAN SMITH: Yes, she did.

13 SPEAKER: He did?

14 CHAIRMAN SMITH: He did, more than.

15 SPEAKER: One quick comment, Mr. Chairman.

16 CHAIRMAN SMITH: So, you-all let me know.
17 I'm here, and I'm trying to be fair to the witnesses and
18 to the House and members of the committee. If the
19 consensus says that we wish to proceed and let each of
20 these witnesses --

21 SPEAKER: I just want to comment that
22 Ms. Brown and I have sat on several committees together
23 and spent many late nights up here and I would guarantee
24 we've been back here early the next morning before some of
25 these young whipper snappers. We defer to the age



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1 questions.

2 CHAIRMAN SMITH: So, do we have a forum?

3 At this time --

4 SPEAKER: Mr. Chairman, I would say -- I
5 have something I wanted to put into the record, a
6 deposition here from Ken George. Mr. George is a former
7 chairman of the Republican party in Dallas County, and I
8 wanted to give a copy of this one deposition to the
9 committee so it becomes a part of the official record just
10 in case this deal comes under Justice Department review.

11 In this particular deposition, Mr. George
12 is unable to identify any voter fraud in Dallas County,
13 even though he did send a letter at the time to the Dallas
14 County DA asking the DA to investigate voter fraud when
15 Tony (inaudible) was running against Harry Miller back in
16 2006 and -- and, you know, just like many of the witnesses
17 that are here today, that report by Mr. George has not
18 produced any voter fraud even though he said initially
19 that there was.

20 CHAIRMAN SMITH: Thank you. And now
21 it's -- I believe I can welcome and I will go ahead and
22 begin the clock and we'll kind of be loosey-goosey about
23 this to the extent that we can until someone complains
24 about the hour.

25 Mr. Dewayne Charleston, would you please



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1 state your name and who you represent?

2 DEWAYNE CHARLESTON: Yes. My name is
3 Dewayne Charleston. I'm a justice of the peace from
4 Waller County.

5 CHAIRMAN SMITH: And you're here to testify
6 against Senate Bill 362?

7 DEWAYNE CHARLESTON: Yes, I am.

8 CHAIRMAN SMITH: Please proceed.

9 DEWAYNE CHARLESTON: Dewayne Charleston,
10 Waller County. I'm a justice of the peace, and I come to
11 oppose this particular bill. I want to thank you for the
12 opportunity to provide testimony about voting rights in
13 Texas and how they relate to the voter ID bill that you
14 may be now considering. Prior to the 2008 election and
15 for the past 20 years I've been deeply involved in trying
16 to end rationally discriminatory voting practices in
17 Waller County, Texas.

18 I met with officials from the United States
19 Department of Justice and from the Texas Attorney
20 General's office and I had been given the assurances based
21 on detailed information that Prairieview students were
22 being subjected to racially discriminatory voting
23 practices, and I got those assurances that action would be
24 taken. And each time I contacted the Texas Attorney
25 General's office I was told that they were still looking



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1 into it, that there were ongoing investigations.

2 During the 2008 election, especially during
3 the spring primary, students at historically black
4 (inaudible) campus once again encountered significant
5 barriers to becoming registered voters and, again, the
6 Texas Attorney General did very little to help.

7 I then contacted the Campaign Legal Center
8 in Washington, D.C. which agreed to and provided legal
9 counsel to another student at the historically black
10 university who believed that their voter registration
11 application was being rejected for racially discriminatory
12 reasons.

13 Upon investigation, the Campaign Legal
14 Center concluded that the actions of Waller County
15 officials violated the Voting Rights Act of 1965. There
16 had been many previous complaints about the unnecessary
17 obstacles to voter registration being placed on the
18 Prairieview students. It would widely known that the
19 Department of Justice had been investigating these
20 problems for the last few years. They provided the
21 departmental attorneys with updated information on the
22 continuing problems, including the significant hurdles
23 erected in violation of the Voting Rights Act by Waller
24 County officials who were attempting to keep Prairieview
25 students from exercising their right to vote.



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1 In the fall of 2008, the United States
2 Department of Justice signed a lawsuit against Waller
3 County for violations of the Voting Rights Act. The
4 violations concerned various aspects of Waller County's
5 racially discriminatory voter registration process.

6 Specifically, the Justice Department
7 identified several new voter registration procedures that
8 had been implemented by Waller County election officials
9 in violation of Section 5 of the Voting Rights Act, which
10 is known as pre-clearance requirements.

11 These changes in voter registration
12 procedures included numerous barriers that Waller County
13 officials had erected and which were aimed at Prairieview
14 students, particularly those students who had volunteered
15 to serve as deputy voting registrars. These barriers
16 included refusing to accept voter registration
17 applications submitted by voluntary deputy registrars that
18 the registrars have (inaudible), requiring the voluntary
19 deputy registrars to notify each such applicant of the
20 rejection and imposing limitations on the number of voter
21 registration applications -- documents that voluntary
22 deputy registrars could obtain in facilitating voter
23 registration drives.

24 The Department of Justice also alleged that
25 Waller County election officials violated federal law



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1 because in processing voter registration applications
2 county officials rejected applications of Prairieview
3 students for arbitrary reasons that were not authorized by
4 state law, such as failure to include difficult and other
5 hyper-technical reasons.

6 On October 17th, 2008, a consent judgment
7 and decree was agreed upon by the United States Department
8 of Justice and Waller County officials and approved by the
9 federal court. The agreement provided for far-ranging
10 relief for African-American students at Prairieview.
11 Under the settlement agreement, Waller County officials
12 admitted that it had made several changes in its voter
13 registration procedures in violation of the Voting Rights
14 Act. The county also admitted that its rejection of
15 Prairieview's voter registration applications that were
16 inconsistent with Texas law. Under the consent judgment,
17 Waller County agreed to review previously-rejected
18 applications within seven days of the settlement
19 agreement, and county officials were required to notify
20 Prairieview students in sufficient time so that they could
21 cast ballots on election day 2008.

22 Also as part of the settlement, election
23 officials in Waller County agreed to develop by
24 December 1st, 2008, a training program for volunteer
25 deputy registrars, including appropriate written materials



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1 for purposes of improving the training registrars.

2 The consent judgment also required -- put
3 Waller County officials to coordinate with Prairieview
4 officials to hold twice annual events on the Prairieview
5 campus at which students can become voluntary deputy voter
6 registrars and receive training (inaudible).

7 As the Waller County case clearly
8 illustrates, problems in voter registration procedures are
9 not a thing of the past. We can all do what we can to
10 eradicate impediments to registration and voting starting
11 with a clear and acceptable voter registration process.

12 What is most troubling to me is the fact
13 that here we have the State of Texas considering the
14 enactment of a law that requires a photo voter ID in order
15 to vote and why, to solve a problem of in-person voter
16 fraud even though such examples of such voter
17 impersonalization fraud are either nonexistent or nearly
18 so.

19 We have a real and actual voting
20 discrimination problem as we did in Waller County, the
21 Texas attorney general barely lifted a finger to help us.
22 As it appears to me, the proposed voter ID bill is but an
23 initiative to identify class of voters who may be further
24 disenfranchised by real or perceived additional on-site
25 voting requirements, and a few of these requirements -- at



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1 least from the perspective of those who seek to
2 discriminate against legitimate voters -- is that the
3 voters who are intimidated by photo ID measures are often
4 deterred from even attempting to vote and are subsequently
5 difficult to identify. Hence the question: Who is
6 denied?

7 It is interesting that since the U.S.
8 supreme Court affirmed the right of Prairieview students
9 to vote in Waller County in 1979 there has been a constant
10 erosion of that right. We need the committee members and
11 those House members who are concerned about voting fraud
12 to join those House members like Representative Al Edwards
13 who marched the 7.2 miles in the rain because they truly
14 cared about protecting the integrity of elections in
15 Texas.

16 Fraudulent elections do have consequences.
17 You should know that the Justice Department sued Waller
18 County in 2008 and Waller County admitted that they had in
19 fact violated the civil rights of students at Prairieview,
20 that a \$49.3 million bond construction was passed by the
21 voters in a local school district that includes
22 Prairieview.

23 In that election, that fraudulent election
24 by local government officials, they disenfranchised
25 thousands of Prairieview students. The bond cast by a few



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1 hundred votes and state officials who were now concerned
2 about tainted elections stood silent. \$49.3 million and
3 state officials stood silent though local officials now
4 admit -- those same local officials now admit after the
5 election was over that the election was fraudulent and not
6 pre-cleared. This small school district, which is Waller
7 Independent School District, relied on the voter
8 registration practices of Waller County who admitted that
9 they had in fact disenfranchised Prairieview students.

10 The bond construction measure passed. The
11 one that passed has pitted a white town against a black
12 town. It pitted a white town versus a black town, and of
13 the \$49.3 million that passed through this fraudulent
14 election, 49.1 went to the white town and \$230,000 went to
15 the black town. And House Bill 1, which I guess was
16 passed a couple years, ago allowed that white town -- that
17 white school board to part in a joint election with the
18 one municipality to the full use of a second municipality.

19 So, you can guess why the one white town,
20 Waller, got \$49.1 million in educational construction and
21 we got the 230,000 in Prairieview. They built a
22 17-million-dollar football stadium that they called
23 educational construction, and we got air conditioning in
24 our gymnasium for the first time -- for the first time in
25 54 years. It was the election and we marched and



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1 protested, and I just can't imagine that right now we have
2 such a strong movement in state -- by state officials to
3 make sure that we don't have tainted elections and now we
4 pay the bills for this football stadium, the
5 17 million-dollar football stadium and all the Waller
6 County officials had to do was apologize and say that we
7 were wrong and yet state officials just stay absolutely
8 silent. Tainted elections, disenfranchised students. And
9 even if all the students came with all of the 11 or 12
10 pieces of non-photographic identification, most of them,
11 their driver's licenses would say Houston and Dallas.
12 Most of their deals would be going to their parents. We
13 don't even have rural delivery in Prairieview, Texas. And
14 so, they only have P.O. boxes for the most part.

15 So, you could go down the list and ask how
16 does this affect Prairieview students, and I will tell you
17 that it is a softball that you-all are attempting to throw
18 at Waller County officials. They use this softball to
19 make it easy to cheat, to make it easy to cheat more of
20 these students out of the ballot box. You-all are
21 throwing or proposing to throw a softball to Waller County
22 officials. (Inaudible) more of these students out of the
23 ballot box. Thank you.

24 Q. (By Representative Bonnen) Let me begin --
25 because I'm a little confused with some of your testimony.



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1 Let me begin by referring to March 11 of 2009, earlier
2 this last month. Senator Ellis had Mr. Bledsoe -- I
3 imagine you know Mr. Bledsoe -- Mr. Bledsoe said, "Well,
4 you know, we have had a number of problems and Attorney
5 General Abbott, you know he assisted the folks in
6 Prairieview when a situation arose where you had a number
7 of people wrongfully purged from the rolls who could not
8 vote in the city election. And he also had, I think,
9 about a thousand ballots. I mean voter registration
10 applications that were just sat on that no one -- just sat
11 on so the folks were not able to vote in the particular
12 election and they were found in the county office and they
13 were --- the attorney general had them filed -- the
14 attorney general had to file them," said by Mr. Bledsoe.

15 Is that -- was Mr. Bled inaccurate?

16 A. I don't know the conversation that he has had.

17 Q. It's a public record that he had testified for
18 Ellis before the state Senate on November 11th of 2009.

19 A. I can tell you that over a thousand voter
20 registration cards were never processed and to this day
21 those cards were never processed in Waller County. It was
22 those thousand cards that allowed that
23 \$49.3 million-dollar bond election pass. And Greg -- I'm
24 going to ask you a question. Greg Abbott, he did hold up
25 the federal lawsuit that we had temporarily for two or



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1 three days. That's why you'll notice that I did say he
2 barely lifted a finger.

3 Q. Well, let's discuss that. I have an attorney
4 general's opinion from February 4th of 2004. I'm from
5 the South of Houston, so I see a lot of this in meetings
6 discussing some of these issues, and I find it interesting
7 that you say barely lifted a finger and the state
8 government hadn't done anything. You're pretty serious
9 about those comments, but eventually this attorney general
10 is the one who wrote the opinion saying that those
11 students who were being denied previously by your county
12 officials the right to vote there. It was General Abbott
13 who wrote the opinion in response to Senator Ellis'
14 question that they could vote there. That's pretty
15 significant.

16 REPRESENTATIVE BONNEN: Well, if you look
17 at the opinion, maybe you may think so. But in '04, he
18 wrote the opinion. In '06 the registration office in
19 Waller County said, "Okay. Just fine."

20 Q. I'm trying to clarify your comments between maybe
21 issues with local officials in Waller County and your
22 claim that the state and the attorney general have done
23 nothing.

24 A. Right. And I'm going to respond to it. In '04
25 he wrote the opinion that those students were entitled to



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1 unfettered access and they were entitled to vote. In '06
2 county officials just flat-out refused to process the
3 cards. We found out that they were seeking criminal
4 charges in '06. Now, he already an opinion saying this is
5 an illegal process or thought it was an illegal process.
6 That was in '06. Not a single person lost their job, was
7 punished, and he assured me that he was going to pass a
8 bill that would provide criminal penalties for election
9 administrators who refused to process cards. That was two
10 years ago. I don't see that there's been any legislation
11 presented --

12 Q. Now, didn't the Waller County DA apologize and
13 resign at that point?

14 A. The Waller County DA did apologize.

15 Q. Didn't he step down?

16 A. Not because of that. Not because of that.

17 Q. Why did he step down?

18 A. He claimed it was because of health issues.

19 Q. Oh, okay. So, when football coaches resign after
20 bad seasons, it's because they are tired of coaching
21 there?

22 REPRESENTATIVE BONNEN: The one thing that
23 I will say is that after he stepped down, a thousand
24 students were still disenfranchised. So, apparently
25 whatever took place at the state and at the local level,



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1 it did nothing to eradicate that impediment.

2 Q. What got the Department of Justice involved? Was
3 it the referral from the attorney general's office?

4 A. New first contacted the justice department and
5 had been dealing with the Justice Department many months
6 before Greg Abbott got involved. In fact, Greg Abbott got
7 involved when I was walking to Austin to protest the fact
8 that he refused to prosecute anybody for withholding those
9 ballots. I remember that.

10 Q. You had to march on off, then, and sit out in
11 front of the attorney general's office until he had a
12 meeting, correct?

13 A. That's not exactly what I said.

14 Q. What did you say?

15 A. I said when I called and he refused to meet with
16 me --

17 Q. Did you actually make a phone call and they
18 refused to meet with you?

19 A. He refused to meet with me until I was 10 miles
20 on the other side of Prairieview and he got a phone call.

21 Q. So, you called his scheduling office and they
22 refused to meet with you?

23 A. As I recall, they did.

24 Q. As you recall?

25 A. Let me say this. When I was 10 miles on the



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1 road, he called and then --

2 Q. Did you make a phone call prior to setting out on
3 the road?

4 A. I made many phone calls.

5 Q. And asked for a specific meeting?

6 A. Many phone calls.

7 Q. But did you ask for a specific meeting with the
8 attorney general?

9 A. I said, "I want to speak with Greg Abbott."

10 Q. Did you ask for a specific meeting with the
11 attorney general? My understanding is that as soon as you
12 set out on the road and said that you were going there to
13 demand your meeting, you had a meeting within a day.

14 A. Same day.

15 Q. Even better. So, prior to that did you call to
16 specifically ask for a meeting with the attorney general?

17 A. Oh, absolutely.

18 Q. And you had been told that?

19 A. Absolutely.

20 Q. Okay. That's interesting. You talked about the
21 bonds. Were there monitors in the election, bond election
22 from the State of Texas, Secretary of State's office?

23 A. In the 2007?

24 Q. Correct.

25 A. I believe so, but the students were registered.



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1 They had never processed the cards.

2 Q. I understand that, but were there not state
3 monitors there to watch that election?

4 A. I believe there were.

5 Q. And did that come from the office of attorney
6 general, the state, Secretary of State's office?

7 A. I can't say for sure. Yeah, that's where that
8 probably come from.

9 Q. The state -- Secretary of State's office? I
10 guess I'm concerned with your claims that the state has
11 done nothing. The interesting thing is that you talked
12 about Department Of Justice. That's who has
13 responsibility over these voting rights claims.

14 A. Well, the Department of Justice claimed that they
15 had already pre-cleared House Bill 1 and because they had
16 already pre-cleared House Bill 1, Waller ISD did not need
17 pre-clearance.

18 Q. So, then, the Department of Justice decided that
19 they were in --

20 A. The Department of Justice hadn't been -- they had
21 (inaudible.)

22 Q. Right. I'm trying to understand.

23 A. They weren't on paper.

24 Q. Sure. I'm not saying they were. What I'm simply
25 saying is that that's who has that authority, correct?



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1 You're blaming the attorney general for authority he
2 doesn't have, but did he not refer that case to the
3 Department of Justice?

4 A. We have been in contact with the Department of
5 Justice 15, 20 years regarding these issues. I can't --

6 Q. Did the Department of Justice take up an actual
7 case and go into an investigation, though?

8 A. I can't say -- I can't say for sure. I can't say
9 for sure that it was on Attorney General Greg Abbott's
10 recommendation or --

11 Q. Did it happen around the same time, though?

12 A. They were already investigating. They were being
13 prodded and pushed forward by him. I'm not sure, but that
14 was alleged.

15 Q. What did the Department of Justice find? I want
16 to be clear about that. The Department of Justice, what
17 was their findings?

18 A. With respect to those thousand students?

19 Q. Uh-huh.

20 A. That's when the (inaudible) that was part of the
21 investigation that led to the consent decree, and that was
22 they had changed many processes and he held many elections
23 over the last 25 years that have not been pre-cleared.

24 Q. I understand, but did they find wrongdoing,
25 though? Did they find Voting Act law violation?



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1 A. There was a consent decree in which waller County
2 admitted that they had, in fact --

3 Q. Waller County admitted that?

4 A. Right.

5 Q. Okay. My understanding, though, is that there
6 was not any criminal conduct alleged. Is that true?

7 A. That's pretty much why they jumped at it. In
8 fact, on the very same day the Justice Department --

9 Q. Well, I have the degree here. My understanding,
10 though, is that there wasn't any criminal --

11 A. Let me say this. When the Justice Department
12 issued that consent decree on the same day, when they
13 issued the log on the same degree that decree had already
14 been agreed to. So, I don't know the details of what
15 happened back behind, but we do know that students were
16 disenfranchised and an election was tainted because of
17 Jackson County.

18 Q. I guess the other thing in regards to what the
19 attorney general's office did or did not do for you, in my
20 records I have that the attorney general's office actually
21 held up that election for -- for bonds. The attorney
22 general's office actually held the sale of bonds for I
23 believe four months because there was a question on the
24 election; is that correct?

25 A. No, the election was initially -- the validation



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1 of the bond was held up initially by the Justice
2 Department before we even knew that they had got
3 pre-clearance. Sometime two months after the election,
4 the Justice Department realized that the local officials
5 didn't even have the election pre-cleared.

6 Q. You're the one who held it up? I'm not talking
7 about the election. I'm talking about the selling of the
8 bonds.

9 A. The bond election should not be valid -- the bond
10 could not be validated until the judge -- until the
11 election had been pre-cleared. That was held up initially
12 by the Justice Department.

13 Q. Did they reject the claim at that point?

14 A. No. That's interesting. I'm glad you asked.
15 There was a guy name John Tanner who made an agreement
16 with the local officials -- and this was after a meeting
17 he had with Attorney General Greg Abbott. John Tanner
18 made an agreement with the local officials, and this was
19 after a meeting that he -- I know that you read it. He
20 said, "We want to go ahead and retroactively pre-clear the
21 49.3-million-dollar bond election as long as Waller
22 Independent School District agreed that in the future they
23 will have joint elections with the City of Prairieview."

24 So, Waller called a special board meeting
25 at 8:00 o'clock in the morning in August after the meeting



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1 between Greg Abbott and Justice Department and they agreed
2 that they will have joint elections with the City of
3 Prairievew. They signed this resolution, they sent it
4 overnight to D.C. On Monday morning, people in the
5 Justice Department get it and they agree to pre-clear or
6 retroactively pre-clear the election based on this
7 resolution, okay? So then they released the money at that
8 particular time and Greg Abbott had an opportunity -- but
9 they released the money at that particular time.

10 Then fast forward to 2008. When they fast
11 forward to 2008 and we're in federal court and we're stuck
12 in federal court, we're asking for Mr. Abbott's office to
13 intercede and help us --

14 Q. Explain to me how they would intercede in federal
15 court. They don't have jurisdiction in that court.

16 A. No. I suspect that maybe they could get
17 involved. I'm not an attorney, but I suspect they could
18 get involved and say, "Well, hold up. There was an
19 agreement" --

20 Q. I've just discussed several situations where they
21 have involved themselves where they have the authority as
22 the attorney general of the State of Texas.

23 A. All I'm saying, we were in federal court. Waller
24 ISD then, once the money was released -- a week after the
25 money was released and made available, then they went back



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1 and said, "Well, we see that House Bill 1 allows us to
2 only go with one city," they go back to saying, well,
3 we're no longer going to have joint elections with the
4 City of Prairieview. At some point the attorney general's
5 office could have gotten involved and said, "Hey, you guys
6 had an agreement."

7 Q. Well, I'm confused. I thought a few seconds ago
8 you were telling me the attorney general's office -- was
9 involved.

10 A. They were involved, but everybody who was
11 involved was not involved to help you. They were
12 involved.

13 Q. What I don't understand, you're going back and
14 forth through whether they were or were not involved.

15 A. No, no. I told you from the very beginning, they
16 did little to help us. Does that not imply that they
17 were, in fact, involved?

18 Q. I'm amazed that you said they did little to help
19 you when they wrote an opinion of holding the right of
20 those students to vote in Prairieview, something that the
21 local officials were flatly denying. They held off on the
22 sale of the bonds. They were declined -- declined the
23 improvement through the bonds, and another thing is that
24 the scheduling office has no record of your request to
25 meet with the attorney general.



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1 A. I'm not in charge of their office.

2 Q. I didn't ask you whether you were in charge of
3 the office. You're sitting here under oath and telling me
4 that you made a request to the scheduling office of the
5 attorney general?

6 A. I called the attorney general's office. Now, if
7 I need to clarify myself, I don't know if I was speaking
8 to the scheduling office or not. I know that their
9 response was once I was on the road was, "Okay. He will
10 meet with you now."

11 Q. Well, I want to be clear, though. I think it's
12 pretty important when you made a request to meet with the
13 attorney general.

14 A. Right.

15 Q. When did you make that request? After you made a
16 press statement saying you were marching on Austin, or did
17 you make a phone call --

18 A. No, I didn't. I made phone calls. Monday
19 morning at, like, 8:05 in the morning. I was waiting for
20 them to come into the office. In fact, I can be more
21 specific about it because I told my wife that morning,
22 "I'm going to call the attorney general's office and if he
23 doesn't agree to meet with me, I'll just walk down there.
24 I'll just stay there until he meets with me."

25 Q. So, what you're -- so, let me piece this



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1 together. What you're basically telling me is you woke up
2 Monday morning and decided you wanted to meet with the
3 attorney general and made a phone call at 8:05 -- and did
4 you get somebody or no?

5 A. In the context of it, that was when I made a
6 decision that I would walk. But for months before I had
7 been in contact with the attorney's general office about
8 the issue.

9 Q. Had you requested a face-to-face meeting with the
10 attorney general over that time?

11 A. I'm not so sure that I had.

12 Q. That's your answer.

13 REPRESENTATIVE BONNEN: Thank you. I rest.

14 Q. (By Alma Allen) Mr. Charleston, I feel your
15 passion, and I feel you're very passionate about this
16 issue and take it very, very seriously.

17 Did Congresswoman Sheila Jackson Lee assist
18 you in connecting you with the Justice Department in
19 question, do you think?

20 A. Absolutely. She made a request of the -- I think
21 it was in the general to get involved in the Waller ISD
22 case, and she was a witness from the very beginning. In
23 fact, it was in 2004 when she initially wrote the attorney
24 general and requested an investigation, and she's the one
25 who really got the Justice Department involved from --



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1 certainly from 2004 on forward.

2 Q. So, you had help not only from your local or your
3 Houston reps, but you had help from (inaudible)?

4 A. Twice he marched with us, in 2004 and also in
5 2008. 2008.

6 Q. And how long had this been going on with
7 discriminated of the students at Prairieview A&M?

8 A. The initial began with a guy named Chuck Ballard.
9 In 1972, Chuck Ballard was a white student enrolled --
10 (inaudible) in the first lawsuit and Craig Washington was
11 one of his attorneys. He filed that and for seven
12 years -- he fought it all the way to the U.S. Supreme
13 Court. The Supreme Court affirmed it in 1979 and Chuck
14 Ballard (inaudible) and everybody knows the story of Chuck
15 Ballard and that it's been going on for better than 35
16 years.

17 Q. Do you know the bill (inaudible) to spend
18 millions, millions of dollars to implement voter ID.

19 Based on your prior happenings at
20 Prairieview, based on records, do you personally have the
21 confidence that the state would invest in necessary
22 resources to educate voters and train election workers in
23 the 254 counties and over 8,000 precincts to provide
24 adequate access to require IP documents if necessary to
25 make such a law not disenfranchise voters?



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1 A. Well, one of the problems that Waller County
2 constantly told us as they sought to eliminate the --
3 spring (inaudible) they sought to eliminate all early
4 polling sites. In a county that's 525 square miles, they
5 were going to have only one early polling site, and they
6 said they could not afford a 3,000-dollar voting machine.
7 And so, they had to begin to consolidate. The money was
8 so tight. Another time they talked about the reason that
9 they couldn't use the hundreds of thousands of the
10 (inaudible) was because we had a new freshman class in and
11 they did not have the labor necessary to process these
12 cards. And most recently they said they did not have the
13 labor to staff all the polling sites.

14 So, you start creating more and more
15 confusion, more and more requirements even if -- I think
16 that Waller County, being a small county with a minimal
17 budget they are going to be more empowered to say that
18 they cannot afford to do these things unfunded mandate.

19 Q. That's what you think if this bill is
20 implemented?

21 A. Absolutely. I think it's a step in the wrong
22 direction, certainly for Waller County. We went from
23 having 600 students in the campus precinct vote in the
24 November general election to 3200 that voted in 2008,
25 three weeks after the Justice Department got involved.



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1 But I think this is definitely the wrong direction because
2 we made some tremendous headway in working with the county
3 administration, county elections office and to now throw
4 that says, okay, bring a bill or bring something from a
5 government agency when they know locally that Prairieview
6 is the only city in the whole county that does not have a
7 mail delivery to their homes, and it's the most popular
8 city in the county. So, students get very little, if
9 anything, mailed to them at a Prairieview address and they
10 can present 10 forms of ID with their names on it and all
11 of it would lead to the preponderance of the evidence that
12 they are not residents of Waller County because everything
13 would say -- have their parents' address. That's the
14 different piece of evidence that I've seen only.

15 REPRESENTATIVE BONNEN: Thank you.

16 Q. (By Chairman Smith) Let me just say that I
17 completely understand why you might be very sensitive to a
18 very suspicious -- any changes of any kind in voting laws
19 because of the fact that there is a history in this
20 country of things occurring that are unacceptable and that
21 resulted in the passage of the Voting Rights Act, which
22 was a piece of legislation that was needed, unfortunately,
23 and as a result of that legislation, anything that this
24 state does -- and those, you know -- you know, anything
25 that this state does has got to be pre-cleared by either



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1 the federal courts or by what would now be the Obama
2 Justice Department.

3 Are you -- do you -- do you have a reason
4 to be concerned about that pre-clearance process that you
5 might not get a fair shake in terms of being protected
6 against any inappropriate practices as a result of this
7 legislation having to be reviewed by and approved by
8 either the Obama Justice Department or our federal court
9 system in Washington, D.C.?

10 A. Well, obviously I have a degree of confidence in
11 the Justice Department now that they would pre-clear it,
12 but we're not going to just roll over because we have a
13 new administrative in. When we filed a lawsuit, we found
14 out that Waller independent School District -- the State
15 of Texas got Waller into this pre-clearance requirement in
16 the early Seventies. It was Waller County that involved
17 Texas. Texas wasn't initially a part of it. It was
18 because of Waller County. And so, Waller County -- the
19 whole State of Texas got in in part due to Waller County
20 and after they brought them in in 1976, Waller County
21 refused to have -- for 17 years even ask for pre-clearance
22 and nobody questioned them. For 17 years they passed
23 bonds and built schools and built them all in Harris
24 County, built them all in Waller and didn't even ask.

25 So, we are -- like you said, I appreciate



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1 your acknowledgement and understanding that we are all
2 suspects because all of our tax dollars and all of our
3 infrastructure dollars went other places. And then we get
4 mad and we decide to stand up, we still lose the issue
5 because of House Bill 1 that says that nobody -- because
6 of House Bill 1 that says that you only have to choose one
7 state to have joint elections with and the Justice
8 Department says their hands are tied. Nobody in the state
9 legislation -- they don't want to get involved, but they
10 had joint elections with one city and we're not going to
11 have it with Prairieview and we lost out.

12 Q. I understand why some people might have been
13 concerned or suspicious arguably from your perspective of
14 the political appointees in the Bush Justice Department.
15 There was some questions there. But now, given the fact
16 that the choice is between the Obama Justice Department
17 and the Washington, D.C. Court of Appeals -- I'm not
18 saying that if you disagree with legislation because of
19 that protection you should just vote yes, but do you -- do
20 you -- are you not comforted that that process will
21 protect any legitimate consequence upon voting rights?

22 A. When we as a group of individuals -- Mayor mare
23 Jackson, his children, when we file a lawsuit, we filed a
24 lawsuit, had two court -- two individual attorneys that
25 took our cases. Waller Independent School District spent



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1 better than \$1.3 million with Vinson & Elkins to fight us
2 all of the way in order to deal with that.

3 We went all the way to putting every --
4 every court, every level in the State of Texas, went
5 before seven Republican judges, and to this day have never
6 had an opportunity to present our case in court.

7 So, on the one hand we feel confident with
8 the Justice Department, but the other question is how much
9 is it going to cost us? Right now I have a hundred
10 thousand dollars over my head in judgments in attorneys'
11 fees and I'm okay with that, but how much is it going to
12 cost us to get to the Justice Department? How much is it
13 going to cost us, and who can afford to continue filing
14 federal lawsuits if you know that you can't even get
15 justice at the local level because of politics and things
16 like that. You have legislation that -- regarding
17 pre-cleared, and no one corrected it.

18 So, I mean, we're rightfully, I believe,
19 skeptical and don't know that we can ever make it all the
20 way to the Justice Department without some major damage.

21 Q. Justin Leavitt with the Brennan Center for
22 Justice at the New York University School of Law agreed
23 that there's not any study of any kind that would -- at
24 least he's not aware of any -- that would suggest that the
25 change we're talking about in Texas where there is a small



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1 change in the current identification requirements would in
2 any way suppress any kind of voter turnout.

3 Are you aware of any studies that he was
4 not aware of that would suggest that this small change --
5 not Vermont versus Indiana, but the little change that the
6 Senate is proposing here in Texas would, in fact, suppress
7 any voter turnout?

8 A. I think with respect to Waller County, it would.
9 Because, for one, they are already struggling right now
10 with just getting 5,000 students registered to vote
11 because of the residency requirements and the other
12 rulings. They are already struggling right now. If they
13 are struggling right now -- and Greg Abbott made a ruling
14 in 2005 -- the Supreme Court made a ruling in '79, it has
15 gotten progressively worse and it has. If you pass
16 another law that imposes even slight changes, that
17 suggests to me that it's certainly not going to get any
18 better.

19 Q. Would the concern that you have apply to any
20 college student at any college regardless of their race
21 and economic background?

22 A. I think it's a very real concern for every
23 college student. I went to William & Mary, and they were
24 having the same problem with William & Mary -- and I think
25 it's Williamsburg -- and that was a virtually all-white



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1 campus and they were having the very same problems. It
2 probably is certainly hurtful to college students. But
3 when you go into a small county like Waller County, it
4 becomes much more exaggerated against predominantly
5 African Americans that represent 25 percent of the voting
6 base.

7 CHAIRMAN SMITH: Okay. Representative
8 Bonnen?

9 Q. (By Representative Bonnen) I appreciate what you
10 just said there. I don't know if you meant it or not, but
11 you made the comment about some general -- making the
12 decision in 2004. One of the things I wanted to ask you
13 is you said the comment about the general since '76.
14 Roughly. Right? Did you say that?

15 A. -- opinion in '04. I didn't say that.

16 Q. Well, you said when the general agreed that those
17 students should be allowed to vote.

18 A. I made the comment that in '04 he made a ruling
19 and the Supreme Court affirmed the decision in '79 and it
20 had gotten progressively worse. That's what I said.

21 Q. Because of his ruling?

22 A. No. I said --

23 Q. Due to your local politics. Right? Not because
24 of the attorney general's ruling.

25 A. What it suggests to me is that if he made a



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1 ruling in '04, the very next election when he saw
2 something going wrong, then there should be been some
3 teeth behind that decision and they do have some law
4 enforcement authority.

5 Q. Well, they do and you have to find criminal
6 action to have -- for them to have that authority, and my
7 understanding is the Department of Justice themselves
8 found no criminal wrongdoing.

9 A. Well, in 2006 the attorney general -- in 2006 the
10 attorney general's office sat down two or three lawsuit
11 enforcement officials. They were investigating for
12 criminal charges, and the last I heard -- this is '09 --
13 it's still an ongoing criminal investigation.

14 Q. The Department of Justice, in their consent
15 decree, say there was not criminal activities. I don't
16 recall reading that at all.

17 A. Okay.

18 Q. Another thing I wanted to ask you: You're
19 saying, though, that the problem does stem back to 1972.
20 You said that earlier.

21 Are you familiar with who the attorney
22 general for the State of Texas has been since 1972 moving
23 forward? You're laying a lot of this on one attorney
24 general, but we've had multiple attorney generals since
25 then. You realize that one of them was Mark White?



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1 A. Correct.

2 Q. He became the governor of Texas. Did he do
3 anything?

4 A. I'm not sure.

5 Q. You know, prior to Mark White was John Hill, a
6 highly-regarded, recognized statewide Democratic official
7 and Jim Maddox, a good man who passed away last year. He
8 was the attorney general from '82 to '90.

9 Was he involved?

10 A. I'm not here to say that it's a Republican versus
11 Democrat thing. I believe in Waller County it's a racial
12 issue.

13 Q. I'm not certain, though, because you keep saying
14 this specific attorney general, General Abbott, who in my
15 view -- maybe I'm totally wrong in this -- is within the
16 limits of his authority in the law has tried to be
17 beneficial. I mean, I'm baffled, quite candidly. I
18 respect maybe the challenge on a local level. I respect
19 the other challenge there. I'm baffled that you would
20 blame the attorney general -- if I'm putting words in your
21 mouth, stop me -- for making a ruling that those students
22 should be allowed to vote in Prairieview only made it
23 worse and that that's bad. I mean, that's amazing to me.
24 I would think that that's a local problem but that the man
25 on the state level made a great ruling and a very positive



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1 ruling for you.

2 A. I'm not so -- I'm not saying that his ruling is
3 what made it bad. I'm saying he barely lifted a finger.

4 Q. That's a stunning comment to me.

5 A. If you went and looked at that gym at 54 years
6 old -- if you went and saw the gym and you say, "Well, how
7 can attorney general sit back when the county says we
8 violated their civil rights?"

9 Q. Who deals with that is the Department of Justice.

10 A. -- ongoing criminal investigation.

11 CHAIRMAN SMITH: At this point, gentlemen,
12 I'm just going to indicate on the record that the time
13 allotted for questions has expired and my general
14 impression was the extent to which we go beyond this will
15 be the extent to which we go past midnight, but I will
16 allow questions of Mr. Raymond after Mr. Bonnen if that's
17 what people desire.

18 Q. (By Representative Bonnen) Let me just, again,
19 back up, to Mr. Bledsoe, who I believe is a significant
20 leader in the NAACP said that all General Abbott. I mean,
21 I'm just -- I think there may be some confusion about what
22 his powers are and what the abilities that his office
23 provides him, but we've probably exhausted it at this
24 point.

25 CHAIRMAN SMITH: Any other members of the



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1 committee before I go to non-committee members? I'm going
2 to exercise my discretion to allow a few questions of
3 non-committee members. Representative Raymond, we're not
4 going to announce when the time is up and ask the members
5 to -- it is up and ask the members to please, please --
6 I'm not going to prevent additional questions, but I am
7 going to ask people to take into consideration the fact
8 that we're going to be here very late if after we get to
9 that point they don't take that into consideration.
10 Representative Raymond?

11 Q. (By Representative Raymond) I won't be very long,
12 Mr. Chairman. With all respect to my friend, Mr. Bonnen,
13 my point of view is a little different.

14 Mr. Abbott -- I've sat here in many
15 meetings with Mr. Abbott and seen him do everything he
16 could to suppress and violate the voting rights of the
17 minorities in the state before when we dealt with
18 redistricting. So, I've seen it up close and personal.
19 And as far as, you know, saying he was your friend and
20 trying to help you, you know, when something cuts off five
21 fingers here and leaves -- cuts off three and leaves you
22 two, well, they're being a friend to the two fingers if
23 you cut off the other eight first. I think that's what
24 we've got with Mr. Abbott. By the way, Mr. Hill was a
25 Republican a lot longer than he was a Democrat.



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1 Are you familiar with -- excuse me? In any
2 event, Judge, are you familiar with -- you've heard a
3 little bit probably about the Indiana case?

4 A. Yes.

5 Q. Well, did you know that the federal appellate
6 judge who upheld the Indiana photo ID law said -- this
7 contradicts a little bit whatever you expert cited, Mr.
8 Chairman -- and I quote, "No doubt most people who don't
9 have photo IDs are low on the economic ladder and, thus,
10 if they do vote are more likely to vote for Democratic
11 than Republican candidates. Thus, the new law injures the
12 Democratic party by compelling the party to devote
13 resources to getting to the polls those of its supporters
14 who would otherwise be discouraged by the new law of
15 bothering to vote."

16 Do you know if the federal judge -- I mean,
17 that's pretty interesting to me that a federal judge would
18 put that in writing in terms of who this law hurts.

19 Are you aware that the AARP, the League of
20 Women Voters, common Cause, NAACP, Lulac and others have
21 testified in opposition to voter ID?

22 A. A little bit familiar.

23 Q. You're familiar that they opposed it? Do you
24 think all these groups are opposing it because they are --
25 and then that the people who were pushing for this because



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1 they want help minorities and folks on the lower end of
2 the economic scale?

3 A. I believe they do.

4 Q. You think they want to help them?

5 A. Yes, I do.

6 Q. You think they are going to help them with this?

7 A. No, I'm talking about those who are opposing this
8 bill, particularly those who are helping minority groups
9 and people on lower income.

10 Q. So, if they are opposing it, do you think maybe
11 they are doing it because they are convinced as this
12 federal judge from up North --

13 A. Absolutely.

14 Q. -- was convinced that it would affect minorities,
15 lower income?

16 A. Absolutely.

17 Q. All right. Let me just ask you because it's very
18 frustrating for me and the chairman is my friend and we've
19 worked on things together and I appreciate him giving me a
20 chance as a non-member of this committee to ask a couple
21 of questions, but I told the chairman the other day that
22 believe it or not my two grandmothers, they didn't have
23 photo IDs. When I told him, he was surprised to know
24 that, I guess, my two grandmothers wouldn't have photo ID.
25 They are both Hispanic, they both live out in a rural



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1 community, and that was a fact. And the fact is there are
2 a lot of folks in Laredo, which is not a rural community
3 that I represent now, a lot of people in the rural
4 community that I used to represent -- I represented seven
5 rural counties, 25 little towns, that would be adversely
6 affected by this kind of law.

7 So, I, you know -- and I want to -- I'm
8 listening to Mr. Bonnen going on about -- I guess he wants
9 you to say that Mr. Abbott is our champion of minorities,
10 but, you know, with all respect, it's hard -- it's hard
11 for us to ever accept that because we know better in the
12 actions that he has taken in the past.

13 You know, what do you think is going on?
14 What is your perspective about why they are pushing this
15 voter ID bill so hard?

16 A. I'm just a lay person, but my thing is I know in
17 Waller County that any time they are throwing a softball
18 like this, they are going to use it and they're going to
19 choke -- choke the students at Prairieview. And I suspect
20 that it happens in rural counties even more so, people who
21 don't have the means and wherewithal to get media
22 attention and other things. But they are going to
23 election workers who come in very temporary, volunteer
24 workers or 7-dollar an hour workers to come in and
25 actually determine that this -- this bill that came to



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1 this particular address, which really means nothing, and
2 give them the discretion. And the more discretion that is
3 given to these poll workers, the more partisan it's going
4 to be.

5 Q. So, you think that maybe -- and I've mentioned
6 this to the chairman, but maybe they can put into this
7 bill that if there were provisions that said if you are an
8 election judge and you prevent somebody from voting, you
9 know, it ought to be a felony. Let's protect the voter
10 because voters get turned -- I'll tell you what. What we
11 have seen is that voters get turned away a lot more and
12 the law is broken in that way a lot more than somebody
13 going in impersonating you or me or Mr. Bonnen or the
14 chairman and trying to say, "Oh, I'm James Bonnen and I
15 want to vote here." You know, that's -- what we have seen
16 is that doesn't happen, but what does happen is --
17 everywhere -- is that you have election judges that turn
18 people away.

19 Do you think it would be a good idea if
20 they were so committed to making this a better system that
21 they would put something in there that says if you turn
22 somebody away and we prove that, it's a felony?

23 A. Absolutely. When we filed the affidavit and
24 complaint for criminal charges -- seeking criminal charges
25 against Waller County officials, the county commissioner's



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1 court went into closed session, abolished the elections
2 office rather than fire the three young ladies who were
3 working in the elections office. Those people were -- the
4 office was abolished, they got severance pay, and all we
5 know is that they went into closed session and something
6 occurred so bad regarding those 1,000 voter registration
7 applications that they saw fit to abolish the elections
8 office. And you combine that with the county saying, "We
9 admit that we disenfranchised students" with three people
10 who were let go of their jobs and will all the resources
11 of Texas Attorney General, they couldn't find a single
12 criminal offense?

13 Q. What's going to happen if this passes and Waller
14 County and the other 253 counties -- I just want to get
15 your opinion based on your experience -- you can go to
16 vote and they look at your ID and say, "No, that looks --
17 you don't look like this picture and you can't vote"?
18 What does this bill do to that judge that said, "No, you
19 can't vote because you don't look like that picture"?

20 A. Right. It gives them the discretion to -- one,
21 it proves his case -- I can only speak to that. It gives
22 them the discretion to say, "Get over in this line, vote
23 provisional, and then you back this line up. And, of
24 course, Prairieview students and college students don't
25 have the right to miss class. They can't go back to the



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1 teacher and say, "Well, I was voting," like an employee
2 can do and going back to his employer saying, "I was
3 voting." They can call it a five or six hour wait like
4 they typically try to do, cause a five- or six-hour wait.

5 Q. I'm sure that won't discourage voters.

6 A. It will discourage voters, and we have a problem
7 because we know that hundreds of students turn away when
8 they know they have to go to a job, they've got to catch a
9 ride with somebody to go to a job, they have to go back to
10 class, they have to go eat because they're on a meal plan
11 that they've already paid.

12 So, when we see them all going away, then
13 people come back and say, "Well, who was disenfranchised
14 because of the long lines and the fact they only had one
15 voting machine and they didn't have the resources?" Well,
16 we can't really prove it because all we saw was them
17 walking away. I believe that the purpose of this bill
18 will be to discourage those people from staying at the
19 polls and even going to the polls to begin with.

20 Q. The last thing I want to ask you about, you told
21 Mr. Bonnen -- you were talking about -- who was it that
22 resigned because -- for health reasons or whatever?

23 A. Oliver Kingsley.

24 Q. And who was -- remind me of who --

25 A. He was the criminal district attorney in 2004 who



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1 threatened criminal prosecution for attempting to register
2 and vote in Waller County.

3 Q. Okay. So, the penalty was you just deny it, and
4 it'll be okay. We'll let you walk away. That's the
5 system that's set up now.

6 A. No criminal charges ever in Waller County.

7 Q. But he resigned and walked away. So, he's okay.
8 Do you know what it reminds me of? It reminds me of when
9 Haliburton was first found out that they were cheating for
10 millions of dollars, charging for gasoline that they
11 weren't selling and President Bush had a press conference
12 and said, "Let me tell you something. If I find out this
13 is true, they're going to have to give every bit of that
14 money back." I'm thinking, "Man, it it's one of my guys
15 from south Texas" -- you know, you go steal a thousand
16 dollars from the federal government, you're going to
17 prison. It's a different standard.

18 A. That's right.

19 Q. I appreciate you being here, and I want to ask
20 you -- you may not want to stick around much longer
21 because, with all respect, I've heard him ask you about a
22 hundred times -- he wants you to think Greg Abbott is
23 great and it's like he's trying to twist you up and I
24 expect him to say (inaudible) how much bubbles are in it?

25 REPRESENTATIVE BONNEN: With all due



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1 respect, I'm simply trying to get some facts on the
2 record. I know that bothers you at times.

3 REPRESENTATIVE RAYMOND: What you're trying
4 to do is you're trying to defend something (inaudible.

5 (Simultaneous conversation)

6 REPRESENTATIVE BONNEN: Mr. Raymond, I'm
7 simply quoting from Mr. Bledsoe on March 11 of 2009 --

8 REPRESENTATIVE RAYMOND: -- out of context.

9 REPRESENTATIVE BONNEN: We'll let you
10 know -- all Frank Attorney General Abbott. That's what I
11 was reading, Mr. Raymond.

12 REPRESENTATIVE RAYMOND: Thank you for
13 cutting off eight fingers and leaving three.

14 REPRESENTATIVE BONNEN: We're actually
15 having a pretty civil discussion.

16 REPRESENTATIVE RAYMOND: Let me tell you
17 where I get worked up. This is a systematic effort to try
18 to disenfranchise blacks and browns and people who are
19 poor. If this was an effort to disenfranchise, you know,
20 white folks that weren't poor and that tended to vote
21 Republican, you'd be raising hell, too.

22 REPRESENTATIVE BONNEN: I've seen the
23 numbers from the State of Indiana and the State of
24 Georgia.

25 CHAIRMAN SMITH: Let me interrupt,



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1 gentlemen, please. Please, please. The --

2 SPEAKER: Mr. Chairman, I wanted to ask him
3 a couple questions.

4 CHAIRMAN SMITH: Okay. First of all, I
5 would just like to make a quick and civilized comment, if
6 possible. Not that these weren't civilized, but I want to
7 maintain decorum -- the proper decorum at this hearing if
8 we possibly can on both sides.

9 The -- I want to emphasize that I agree,
10 first of all, with your concerns about the Senate bill in
11 terms of part-time workers making decisions about whether
12 you look enough like your picture to be able to cast a
13 vote, okay? I agree with that.

14 I want to emphasize, however, that the
15 photo identification requirements that are currently in
16 law do not change at all in this legislation. So, to the
17 extent that your granddaddy didn't have a photo ID,
18 there's no change in current law with regard to photo
19 identification in this legislation. All that's being
20 changed is the provisions regarding non-photo
21 identification to require two forms rather than one.

22 You currently have the right to vote with a
23 photo identification, and then this law you'll still have
24 the right to vote with a photo identification. The only
25 change is with regard to non-photo identification. And



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1 insofar as Chief Justice Stephen -- I don't know if that's
2 where the quote that Representative Raymond was referring
3 to came from, but he is one of the more liberal of
4 justices on the Supreme Court who wrote the majority
5 opinion.

6 SPEAKER: Mr. Chairman, just so you'll
7 know, it was a federal judge from Indiana who upheld the
8 opinion.

9 CHAIRMAN SMITH: District court or Court of
10 Appeals?

11 SPEAKER: Court of appeals. But it was a
12 judge that upheld the opinion.

13 CHAIRMAN SMITH: Justice Stephens who wrote
14 the majority opinion on the Supreme Court indicated in his
15 words on Page 15 that the inconvenience -- he was talking
16 about Indiana, which requires a photo ID, not Texas, which
17 the Senate bill would not.

18 He said, relating to the bill that did
19 require a photo ID, "The inconvenience of making a trip to
20 the Bureau of Motor Vehicles, gathering the required
21 documents, and posing for a photograph surely does not
22 qualify as a substantial burden on the right to vote or
23 even represent a significant increase over the usual
24 burdens of voting."

25 If that is one of the liberal justice's



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1 opinions with regard to the Indiana law which does require
2 a photo identification, I presume that that opinion is
3 even more so with regard to a Texas law that simply alters
4 the requirements for casting a non- -- for providing
5 non-photo identification.

6 That's all the Senate bill would do. And
7 so, a lot of the rhetoric and so forth about a law that is
8 not even before us is really academic.

9 Yes, representative?

10 SPEAKER: While we're on Abbott, I wanted
11 to ask you a couple questions.

12 Q. (By Speaker) What type of -- because there were
13 allegations that there was students there, there were
14 citizens there, African-American citizens that were denied
15 their suffrage, denied their right to vote.

16 What sort of evidence or what sort of
17 refunds and resources did the state attorney general's
18 office to come into Waller County to help that situation?

19 A. One, they gave us no resources. In fact, even
20 with the information I had to FedEx them I had to pay for
21 it out of my pocket and they were trying to investigate --
22 they sent on two or three different occasions criminal
23 investigators down. I constantly made suggestions that if
24 you-all will just come set up in the MSC, the student
25 center, you could come set up and then you could just pull



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1 people over and say, "Were you denied the right to vote?
2 Were you turned away?" I told them that they could run an
3 ad in the newspaper and ask the question "Were you turned
4 away?" because it's very difficult to find seven or 800
5 students who were denied the right to vote.

6 They didn't advertise. They didn't set up
7 any tables. They didn't do any phone calls, to my
8 knowledge. Maybe they did from the offices, but I don't
9 know. We had copies of all of the applications that were
10 turned in. And so, they had the ability to -- to vote for
11 all those applications. We turned over seven or 800
12 applications in that were never processed. And for five
13 months later not processed until the day that I was
14 walking with copies of these applications that would
15 appear in the Houston Chronicle and then the very next day
16 county officials admitted that they, in fact, did have
17 those applications.

18 In fact, when I asked the attorney's
19 general's office where were the applications found, they
20 were found in the district attorney's office. They were
21 found in the district attorney's office and still no
22 prosecution, no nothing.

23 Q. So, you had numerous African-American students --
24 predominantly African-American students because
25 Prairieview is a campus that is predominantly black?



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1 A. Right.

2 Q. So, you had allegations from a wide -- a large
3 number of people that attended school at Prairieview
4 University that lived in Waller County.

5 Now, are you aware that over the last
6 several years that the attorney general was investigating
7 people for mail and ballot fraud? Are you aware that most
8 of those allegations of mail and ballot fraud was usually
9 just, you know, from what we can see, like one person
10 making an allegation at times? Are you aware that most of
11 the people, with the exception of one -- everybody that
12 was accused of it and everybody that was investigated was
13 minority, either black or brown?

14 A. Absolutely. In fact, the representative here was
15 asking me about that. I didn't know about what was going
16 on in Fort Worth and the federal case that took place in
17 March until I got a call from the AG's office asking if I
18 could do Greg Abbott a favor, and that favor was they
19 wanted me to provide testimony on -- about what Greg
20 Abbott had done for the students at Prairieview.

21 And it was then that I got involved and was
22 able to go and say, "Hold up. I didn't know all of that
23 was going on. Now I see what I was being used for,"
24 because they wanted me to provide some character testimony
25 at a case up in Marshall when I didn't know what was going



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1 on and I refused to provide that testimony. And so, now,
2 as I said, I understand how I was trying to be played. I
3 understand that now.

4 Q. How were you being played? I'm confused.

5 A. Because they thought that because of their
6 holding up a bond temporarily, they thought because of
7 their intervening and sending a couple of investigators
8 out that I would be beholden to them and provide testimony
9 about what a great job he had done for us.

10 Q. What authority did the attorney general's office
11 beyond sending investigators?

12 A. I don't know. I'm not --

13 Q. Did the Department of Justice, who has the
14 significant amount of authority and dollars and ability to
15 investigate this, did they file or find any criminal
16 actions?

17 A. There were no criminal --

18 Q. And in my county -- let me just clarify, too,
19 that in my county that no one found any criminal
20 allegations. These were just allegations that were made
21 by one person. Let me finish my line of questions, and
22 I'll be more than happy to let you jump back in. But
23 these were allegations that were made and they were
24 investigated -- investigators were sent out, people were
25 questioned because I know that these folks in my district



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1 felt like they were violated. They felt like that -- I
2 know one lady who is still not (inaudible) the day because
3 it was such a traumatic experience for her that, you know,
4 they were never the same after this and they felt like
5 their -- their reputation in the community had been
6 tarnished.

7 So, I'm asking you in Waller County did the
8 attorney general go after the citizens that were
9 discriminated against and make those other folks on the
10 other side of town feel like they made folks on my side of
11 town?

12 A. I'm glad you asked the question. The first level
13 of criminal complaints of AG's office -- the AG's office
14 came around, they sealed the offices -- they assured me
15 the office was sealed -- and put tape on the door. They
16 sealed the office. And then five months later, even
17 though they had come in and got copies of everything and
18 said that they couldn't find anything -- five months after
19 they sealed the office and investigated, the copies were
20 found in the very building that had been sealed by the
21 attorney general's office and those girls had already
22 resigned and everything was -- nobody faced any criminal
23 charges and there didn't seem to be any real criminal
24 prosecution or effort to prosecute those who later
25 admitted they had, in fact, disenfranchised those



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1 students.

2 Q. Now, let me ask you a question --

3 CHAIRMAN SMITH: I'm going to give you a
4 chance. I just want to make sure you understand that we
5 have seven witnesses left and two of them are with the
6 NAACP. One of them is with AARP. These people are going
7 to be very late if we don't try to -- we're 20 minutes
8 over. I'll take that into consideration.

9 Q. (By Speaker) I promise I only have one more
10 question because I think this is important because you
11 understand and the students that you have worked with
12 understand -- we're not talking about something that
13 happened in 1950 or '60 something that today people are so
14 dismissive of.

15 A. That's right.

16 Q. The students that you represent know what it's
17 like to be discriminated today.

18 A. Absolutely.

19 Q. So, out of everything that you heard -- and I'm
20 talking about people that are for this legislation, people
21 that are for voter ID bill.

22 Have you heard anything in any of the
23 testimony or any of the comments that have been made by
24 anyone that would indicate to you that these folks are as
25 concerned about the voting rights of African-Americans or



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1 black students as they are concerned about the integrity
2 of the ballot box?

3 A. Absolutely not, and that's one reason I'm here
4 because I can't imagine that so many people are concerned
5 about tainted elections. Tainted elections that knew
6 anything about what was going on in Waller County -- and
7 it didn't just happen in Waller County. But if you can
8 see where \$49.1 million went to a white town and \$230,000
9 went to a black town to air condition a gymnasium that we
10 had been trying to get air conditioning for 54 years, and
11 that was a tainted election. Everything that we alleged
12 proved true. We couldn't get any criminal prosecution,
13 but everything we alleged came true. But now we're left
14 paying a tab to put infrastructure in somebody else's
15 playground. We haven't got the support but for
16 African-American legislation -- not even our own
17 legislation, but African-American legislatures were the
18 only ones who had come to our defense. And this tainted
19 election -- a tainted election, the very county that drug
20 the State of Texas into this pre-clearance requirement,
21 the very county, the whole county that made Texas spend
22 millions of dollars in pre-clearance is still running
23 rolls and we haven't got anybody concerned about tainted
24 elections to come to our defense but for the legislative
25 black population.



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CHAIRMAN SMITH: Any other questions, members? Thank you, Mr. Charleston. Appreciate you being here today.

(David Mulhausen)

CHAIRMAN SMITH: At this time, the chair calls David Mulhausen, who is the senior policy analyst with the Heritage Foundation and, for the record, I will identify you as being a fairly conservative (inaudible). I want to be an equal opportunity accuser in terms of ideological bent.

You're here to testify in favor of Senate Bill 362; is that correct?

MR. MULHAUSEN: Yes, it is.

CHAIRMAN SMITH: Please state your name again and who you represent.

MR. MULHAUSEN: My name is David Mulhausen. I am a senior policy analyst in the Center for (inaudible) the Heritage Foundation. I thank Chairman Smith and the rest of the committee for the opportunity to testify today. The views expressed in this testimony are my own and should not be construed as representing any official position of the Heritage Foundation.

Last year, the United States Supreme Court's Crawford versus Marion decision ruled that on its face Indiana's photo ID law did not pose an



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1 unconstitutional burden on voters. Associate Justice John
2 Paul Stephens concluded that a state may put into effect
3 even-handed restrictions to protect the integrity and the
4 reliability of the electoral process itself.

5 For those without a government-issued photo
6 ID, Justice Stephens noted that the Indiana Bureau of
7 Motor Vehicles provided free photo identification cards.
8 For those that need to obtain the free photo ID, Justice
9 Stephens commented that the inconvenience of making a trip
10 to the Indiana Bureau of Motor Vehicles, gathering the
11 required documents, and posing for a photograph certainly
12 do not qualify as a substantial burden on the right to
13 vote or even represent a significant increase over the
14 usual hassles of voting.

15 In Texas many voters are already required
16 to present photo identification at the polls. The Help
17 America Vote Act passed by United States Congress in 2002
18 requires all first-time voters who register to vote by
19 mail provide a valid photo identification or other
20 documentation at the polls.

21 For those voting without identification,
22 the Help the America Vote Act requires the states to set
23 provisional balance.

24 I would say that there are several social
25 science studies that indicate voter ID laws do not



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1 disenfranchise voters. The Heritage Foundation office
2 study I co-author with my colleague analyzed the effect of
3 photo identification laws on voter turnout during the 2004
4 election.

5 Our study found that these laws do not have
6 a negative impact as previously suggested. Once
7 statistically significant and negative relationships are
8 found, the effects are so small that there's little policy
9 significance. For example, Foundation -- the Heritage
10 Foundation office found that white surveyed respondents in
11 photo ID states are two one-thousandths of a percent less
12 likely to report voting than white respondents of states
13 that only require voters to state their name.

14 African-American respondents in non-photo
15 ID states are one one-hundredth of a percent less likely
16 to report voting than African-American respondents from
17 states that only require voters to state their name. In
18 other cases, no effect was found.

19 In general, respondents of all races in
20 photo ID states and non-photo ID states are just as likely
21 to report voting compared to respondents in states that
22 only require voters to state their name. African-American
23 respondents in photo ID states are just as likely to
24 report voting similar to respondents in states that only
25 require voters to state their name.



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1 The findings of the Heritage analysis
2 suggests that voter ID laws, such as requiring photo
3 identification have virtually no suppressive effect on
4 voter turnout.

5 Additional research strongly suggests that
6 photo ID laws do not suppress voter turnout. Using
7 Indiana County level data from 2002 to 2006, Professor
8 Jeffrey Miller at the University of Missouri performed a
9 rigorous analysis of the impact of Indiana's photo ID law.
10 Professor Miller analyzed the changes in voter turnout in
11 Indiana counties before and after implementation of the
12 state's photo ID law. Overall, the statewide turnout
13 increased by 2 percentage points. The law had no effect
14 on turnout in counties with higher concentrations of
15 minorities, poor, hourly, or less educated. Furthermore,
16 turnout increased in counties with greater percentage of
17 Democrats than other counties.

18 A 2009 study by Professor Jason Mikoff of
19 the University of Delaware and his colleagues used
20 state-level individual data to analyze national voter
21 turnout in four elections from 2000, 2006. This study is
22 rigorous because they examined the effect of photo ID laws
23 on voter turnout over four elections. Their study
24 controls for the political interests such as
25 self-importing enthusiasm from participating in a



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1 political process. Political interest is considered one
2 of the best predictors of voter turnout. As the
3 controller for motivation to participate in the electoral
4 process, Mikoff and his colleagues assert that there's
5 little reason to believe that voter ID laws would induce a
6 person's desire to vote. Their study found that photo
7 identification laws do not effect turnout.

8 Americans in general support photo ID laws
9 for good reason. First, there's little evidence to
10 suggest that these policies disenfranchised voters.
11 Second, voter ID laws are a common-sense policy to help
12 ensure the integrity of elections.

13 CHAIRMAN SMITH: Let me start your clock.

14 Q. (By Chairman Smith) You mentioned -- I want to
15 get my hands a little bit around -- I have so many
16 documents behind me, I have had trouble identifying the
17 report that I'm looking for.

18 In terms of the report studies that are out
19 there and the attempt to look at this issue and the extent
20 to which these laws have affected turnouts, it's my
21 understanding -- we've got your study, which I'm getting a
22 bottom line conclusion is concluding that there's no
23 effect on voter turnout; is that right?

24 A. Right.

25 Q. We've got this University of Delaware and



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1 University of Nebraska professor's study that was in
2 Political Science Magazine?

3 A. The Mikoff study.

4 Q. That's an indication that there's no effect?
5 That's their conclusion, correct?

6 A. Yes.

7 Q. And then we've got a Missouri study. And did
8 they not, in fact, determine that they thought it had a
9 positive impact on turnout?

10 A. Well, basically what the state found basically
11 that percentage of votes actually increased, but also
12 found that the law had no effect even though the raw
13 number suggests that voter turnout increased by 2 percent.

14 Q. So, they found the law itself had no effect?

15 A. Yes.

16 Q. And so, there is a study out there on the other
17 side of this issue that indicates a 2 point
18 something percent adverse effect in turnout.

19 What study is that?

20 A. I'm not sure off the hand. I know that there's
21 been a study that compares states that use very weak
22 statistical techniques that I would not consider a very
23 rigorous study.

24 Q. What study was that?

25 A. I believe it's a study that compared Indiana to



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1 another state that had Professor Brennan's --

2 Q. Was that the Brennan Department or --

3 A. I can't remember offhand.

4 Q. So, I'm trying desperately to find out in that
5 study what they were comparing, what to what?

6 A. What they were controlling for, too. That's very
7 important, too.

8 CHAIRMAN SMITH: Okay. Any questions,
9 members, of this witness? Representative Anchia.

10 Q. (By Representative Anchia) Mr. Mulhausen, thank
11 you for being here today. Was your study peer reviewed?

12 A. It actually didn't go through a journal process.
13 My study was basically a -- a response to a study that was
14 funded by the federal government that on its face used
15 questionable methods, and I just go through in my study
16 and just show that --

17 Q. Is that the Eagleton study?

18 A. The Eagleton study. I just to show that
19 basically they have a lot of coding errors, mistakes in
20 classification of laws. If you account for those errors,
21 the effect that they found disappears.

22 Q. And the Eagleton study did conclude -- I think
23 you say this in your -- include this in your written
24 testimony. This is Professor Timothy Versalotti found
25 that more stringent voter identification requirements



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1 appear to reduce voter turnout. That was the conclusion?

2 A. That was the conclusion, but when you corrected
3 the further mistakes, those findings disappear.

4 Q. And are you aware -- are you familiar with the
5 Erickson and Midnight study entitled Modeling Programs in
6 Voter ID: Voter Turnout Debate?

7 A. I actually haven't read that study.

8 Q. Okay. Well, they conclude that we should be wary
9 of claims on both sides of the controversy because of the
10 limitations of the modeling that are used, and I think
11 Mr. Leavitt alluded to that from the Brennan Center.

12 Did you hear his testimony?

13 A. Yes.

14 Q. And would you agree with that, that they are
15 inherent limitations to proving -- using turnout year over
16 either and in -- turnout from before the implementation of
17 voter ID and after, that it would be very difficult to
18 prove one situation or another?

19 A. Well, I think that it wouldn't be too difficult
20 to prove. I think the Mikoff study is probably, in my
21 opinion, the best study out there because they controlled
22 for the political motivation of the voter.

23 Q. How did they do that?

24 A. Basically they have a survey of voters and the
25 voters are asked how strongly you are engaged into the



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1 total process -- not very likely, moderately, and very.

2 Q. Was it statistically significant?

3 A. Yes. And once you control for that, you'll find
4 that some of the previous -- my own study doesn't control
5 for the motivation of the voter simply because it's based
6 on current population survey which doesn't ask the voter
7 or the respondent what their motivations are.

8 Q. So, you did you calculate -- were your results
9 statistically significant or were your -- was your survey
10 statistically significant?

11 A. Some of my results are statistically significant.

12 Q. What about others? Were all of them
13 statistically significant?

14 A. Well, it depends -- found had statistically
15 significant finding, but after you correct it for the
16 misclassification of Arizona, the results disappear. And
17 so, it was no longer statistically significant. So, you
18 can get statistically significant with a bad model.

19 Q. Are you aware of any evidence at all that voters
20 are more likely to vote because of new voter ID laws?

21 A. I am not aware of any evidence that consistently
22 points in that direction. What I would say is --

23 Q. Can you cite any work that points in that
24 direction?

25 A. Well, the Miller study of Indiana, Jeffrey



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1 Miller, he indicates that --

2 Q. Was that peer reviewed?

3 A. I do not know.

4 Q. Okay. Have you studied any instances of -- let's
5 back up.

6 Have you read this bill, the Frazier bill?

7 A. I'm not expert in the bill.

8 Q. Have you read the bill analysis, the summary to
9 the bill?

10 A. No. I've read the summary to the bill.

11 Q. But you haven't read the bill itself? And you
12 wouldn't be able to tell us, based on your Heritage Center
13 report, how it might impact voters in Texas?

14 A. What I would suggest is probably the overwhelming
15 majority of Texans already have appropriate form of
16 identification.

17 Q. What percentage?

18 A. Don't know. I would be very interested -- wish
19 somebody would actually find that out because I would bet
20 it's a very high percentage. And second, I would say that
21 people who are engaged in the voting process are going to
22 go out and get photo ID if necessary.

23 Q. Would it be relevant to your conclusion that
24 about 810,000 Texans who are eligible and registered
25 voters when they registered to vote did not furnish either



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1 the last four digits of their Social Security number or a
2 Texas driver's license?

3 A. Well, I think that under this court of law
4 there's already enough outs where you can actually vote
5 without presenting a photo ID.

6 Q. And how many -- and what are those outs?

7 A. I believe if you have two letters from the
8 government, official letters, that they can be used and
9 there's some other -- I don't have the whole list.

10 REPRESENTATIVE ANCHIA: Okay. Okay. Thank
11 you for your time.

12 Q. (By Chairman Smith) Just for the record, I want
13 to state I have been given a copy and it looks like it is
14 the Eagleton Institute of Politics at the State University
15 of New Jersey and the Morenz College of Law at the Ohio
16 State University that has issued this report, and I just
17 want to indicate for the record that their finding on
18 Page 28 is that "Voters and states that required photo
19 identification were 2.7 percent less likely to vote than
20 voters in states where individuals had to give their
21 names."

22 So, that you would agree would indicate to
23 me what they were doing when they made the comparison was
24 comparing -- I think Vermont is like that, where you just
25 walk in, you give them the name, if you're on voter



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1 registration, you vote -- to Indiana, which has a
2 requirement that you provide a photo ID and if you do not,
3 the only way your vote counts is if a justice approves it
4 within 10 days.

5 A. They looked at all 50 states. They classified
6 each state by their voting laws, and they found that --
7 again, I replicate the findings in their study. They
8 found that, for instance, after you corrected for
9 Arizona -- in 2004, Arizona had a ballot to require a
10 photo ID. And so, what they do is before the law was
11 actually passed and after you correct for that mistake,
12 the findings disappear so that --

13 Q. I understand that you don't agree with the
14 conclusion. I'm just trying to determine what this study,
15 which as far as I know is the only study that I have seen
16 that indicates that there's an adverse effect on turnout.
17 So, I'm trying to determine for the record what their
18 assertion or allegation is.

19 In reading this sentence, it sounds like to
20 me they are comparing states that require photo
21 identification to states where individuals had to give
22 their names. So, what they are doing is comparing an
23 Indiana-like law to a Vermont-like law. Is that correct?

24 A. Yes.

25 Q. And their conclusion was that even where you



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1 compare the most extreme possibilities from one end of the
2 spectrum to the other, there's a 2.7 percent reduction in
3 turnout. Right?

4 A. Yes.

5 Q. Other studies have indicated no effect?

6 A. Yes.

7 Q. But even if this were accepted as truth, it would
8 not be any kind of an indication of the effect of a change
9 in Texas where we do not change the photo identification
10 requirement that is in place already. It's not a
11 requirement. It's an option -- and we simply change the
12 non-photo requirement to require if you use that form of
13 identification that you back your voter registration up
14 with some sort of additional non-photo documentation.
15 There's nothing in place that would suggest or infer that
16 that in any way is going to suppress any kind of turnout.

17 Do you agree with that?

18 A. I agree with you totally.

19 CHAIRMAN SMITH: Any other questions? Dr.
20 Allen?

21 Q. (By Alma Allen) In your study you use the term
22 "state your name." Do you simply mean walk up and say,
23 "I'm Alma Allen," and they said okay?

24 A. Yes. In some states -- I voted in Maryland where
25 I said, My name is David Mulhausen," and they look in the



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1 roll and they find a David Mulhausen and say, "Okay. You
2 can vote."

3 CHAIRMAN SMITH: That's the way Texas was
4 until the late Nineties.

5 ALMA ALLEN: Great. The late Nineties?
6 Okay. 1990?

7 CHAIRMAN SMITH: No, late Nineties.

8 ALMA ALLEN: I didn't know that.

9 CHAIRMAN SMITH: You may not have ever
10 tried to do that.

11 ALMA ALLEN: No, because I always had
12 something else. Since 1964, I couldn't walk up. Until
13 then, I had to do something.

14 CHAIRMAN SMITH: I don't know how far back
15 that goes, but my understanding is the requirement to
16 provide identification did not come into play until the
17 1990s.

18 Any other members of the committee that
19 wish to ask some questions before I give Representative
20 Raymond the opportunity to?

21 Q. (By Representative Raymond) First, I just want to
22 ask you, Mr. Mulhausen, looking at your testimony, at the
23 top it's a letterhead from the Heritage Foundation but
24 then, you know, the second sentence says, "The views I
25 express in this testimony are my own and should not be



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1 construed as representing any official position of the
2 Heritage Foundation."

3 So, is it the Heritage Foundation's
4 position or not?

5 A. It's my position, and basically it's standard
6 practice for Heritage Foundation where they are
7 testifying --

8 Q. Is this the position of the Heritage Foundation
9 or not?

10 A. This is the position of David Mulhausen.

11 Q. Why would you use this -- it's a little
12 misleading. Would you agree it's a little misleading?

13 A. Well, this is actually how it's done.

14 Q. I'm really -- I want to ask because this is a
15 well-known foundation. And so, you know, is this the
16 position of the foundation or not?

17 A. It is the position of David Mulhausen.

18 Q. Okay.

19 A. An employee of the Heritage Foundation.

20 Q. But not the foundation?

21 A. Not necessarily the foundation.

22 Q. You don't believe that that's misleading?

23 A. No. I'm here --

24 Q. Well, I'm sorry, but I think it is. But
25 nonetheless, it's not the position of the Heritage



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1 Foundation. You're based in D.C.?

2 A. Yes, we are.

3 Q. Flew down there?

4 A. Yes, I did.

5 Q. Who pays for your expenses to come down here?

6 A. It depends. Sometimes the Heritage Foundation,
7 sometimes not. In this case, somebody else did.

8 Q. You're not telling us who?

9 A. Safe Texas.

10 Q. Say again?

11 A. Safe Texas.

12 Q. Safe Texas?

13 A. Safe Texas.

14 Q. I'm sorry. Who is Safe Texas?

15 A. It's an organization concerned about photo ID
16 issues in the state.

17 Q. Where are they based?

18 A. I think you should ask Safe Texas.

19 Q. Well, I'm asking you because that's who you're
20 representing.

21 A. I'm representing myself. I think you're making a
22 big deal out of nothing here.

23 Q. I'm sure you're right, you think we're making a
24 big deal out of nothing. This is a big deal for us
25 because what we feel -- a lot of us feel, and I guess



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1 we're -- you know, you're all right or we're all wrong,
2 that every minority who is involved in trying to make sure
3 the minorities have voting rights feel like this is an
4 effort to suppress voting rights. So, it is a big deal to
5 us. I'll move on.

6 The -- is it your feeling -- you came all
7 the way down here, but is it your feeling that the voting
8 system in Texas right now is not good or it needs to be
9 made better?

10 A. Well, I think in general -- I think most states
11 should adopt --

12 Q. I'm talking about Texas.

13 A. I think most states, including Texas, should
14 adopt --

15 Q. Do you feel that our election system right now is
16 being corrupted or not efficient or it allows people to
17 cheat or --

18 A. I think there are reasonable steps to help ensure
19 the integrity of the process that could be adopted.

20 Q. Is it your feeling that there is something wrong
21 with Texas now or not?

22 A. I think the voting system could be improved in
23 Texas.

24 Q. So, you think that there are problems with the
25 voting system in Texas?



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1 A. I think a lot of states have problems.

2 Q. I'm trying to ask you a reasonable question.

3 A. Sure. I'm trying to answer.

4 Q. Well -- so, do you think that Texas has problems?

5 A. I think Texas can improve its electoral process.

6 There are some problems in Texas.

7 Q. And you're aware that we've had a Republican
8 governor in this state since 1994. Right?

9 A. Right.

10 Q. So, from '94 to now we've had a Republican
11 governor, a Republican state senator. From 2002 until
12 today, the majority of the state House is Republicans.

13 So, you think we have problems in our
14 voting system and we're electing all these Republicans, is
15 it your view that if we pass this it's going to be better
16 and that --

17 A. Well, I'm -- to be honest with you, I don't
18 really care who you elect as long as you elect somebody
19 and a system that has -- that has held to certain
20 standards to make sure that it's a valid election.

21 Q. You have a bunch of examples of where people in
22 Texas have tried to impersonate voters?

23 A. I think there's some other people here who can
24 testify to that better who are coming after me.

25 Q. Well, you came here, so I was trying to ascertain



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1 what got you on the airplane.

2 A. What got me on an airplane is that I've studied
3 the effect of voter ID laws, and that's where my expertise
4 lies. There appears to be no effect from photo ID laws on
5 voter turnout.

6 Q. You mentioned here the Rasmussen report on Page 2
7 of your paper. Right?

8 A. Uh-huh.

9 Q. And it says that, quote, on here 57 percent of
10 Americans favor ID laws. 9 percent of white, 15 percent
11 of African Americans, and you don't mention Hispanics, but
12 is it your contention that there would be that great
13 disparity from 9 to 58 percent in terms of that there are
14 a lot more Anglos that support it as opposed to a lot more
15 African-Americans who obviously don't?

16 A. Well, I mean, the odds --

17 Q. Does it matter to you or not?

18 A. Well, what matters to me is that it looks like
19 the majority of Americans in this poll support the law.
20 I'm not somebody who obsesses about racial differences or
21 ethnicity among people. I don't spend my whole time
22 obsessed with that. You are who you are, and I accept you
23 for that.

24 Q. So, you wouldn't take notice of the fact that a
25 lot more African-Americans are concerned about this than



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1 Anglo Americans?

2 A. Well, I think the fact -- I think certain
3 segments of the population could be better educated on the
4 effect of these laws.

5 Q. Really?

6 A. Yeah.

7 Q. So, you think African-Americans aren't educated
8 enough?

9 A. Well, I read some literature of some
10 organizations and -- comparing the -- required to show
11 identification supports some form of identification to a
12 poll tax and I think that's a very unfair comparison. It
13 doesn't hold much merit.

14 Q. Really?

15 A. Yes.

16 Q. So, you've lived a life amongst the folks who --
17 and you can't imagine folks that would actually think it
18 would be cumbersome or costly or hard to go get a voter
19 ID?

20 A. Actually, I think Justice Stephens wrote is that
21 once every six years to go get a free photo ID.

22 Q. Justice Stephens, is he African-American?

23 A. No, but --

24 Q. Is he Hispanic?

25 A. No, he's not.



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1 Q. Answer my question, then you can -- is he
2 African-American or Hispanic? Yes or no?

3 A. He looks to be white American.

4 Q. And how old is he, more or less?

5 A. He's quite elderly.

6 Q. And he's lived in Washington, D.C. how long?

7 A. Since -- probably a good portion of his life.

8 Q. Right, a good portion of his life. And how much
9 experience do you think he has had in his life -- in the
10 last 50 years of his life of understanding our community
11 and what would be too hard or too easy? (Inaudible) who
12 didn't have a photo ID, it would be easy for them to go
13 get it. From his point of view and his vantage point -- I
14 don't care if he's liberal. He's a white, rich guy
15 sitting up on the Supreme Court for the last 45 years,
16 however many years it's been, and he has no clue about
17 what's hard or what's easy for folks in the communities we
18 represent.

19 A. I can't delve into his mind, but my perspective
20 is that I consider all human beings to have enough
21 capacity to not just -- if there's a law passed that says
22 you need to have certain forms of identification, I don't
23 think for some reason that minorities are going to be
24 unable to fill that obligation. I just --

25 (Simultaneous conversation).



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1 A. I think it's a disrespectful sort of view of
2 minorities to think that they are incapable of --

3 Q. I'm saying would it be more difficult? Can you
4 fathom how that might be more difficult?

5 A. How much more difficult? How much more difficult
6 it is to go and -- go to Department of Public Safety and
7 get a free voter ID card?

8 Q. Right, you can't. Have you represented five
9 rural towns -- 25 rural towns in south Texas like I did?

10 A. No.

11 Q. You grew up in a town of 1500 with 99 percent
12 Hispanics like I did?

13 A. No.

14 Q. Then you can't -- you can't understand.

15 CHAIRMAN SMITH: Any other questions?

16 Q. (By Speaker) You mentioned something just a
17 second ago about fair and reasonable steps as it relates
18 to the photo ID voter integrity.

19 I don't remember exactly how you phrased
20 it, but do you remember making that comment?

21 A. I was supporting Justice Stephens.

22 Q. About the fair and reasonable steps. Can you
23 tell me that the organization or the individual -- because
24 you said you treat everybody equally and that you believe
25 that everybody is the same and we're all created equal.



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1 Can you come up (inaudible) idea on how
2 people that don't have ID and they go vote on election day
3 at 6:55 p.m. and they don't have any ID, how they are
4 likely to vote and be protected?

5 A. Well, first of all, any voter ID law should not
6 take effect immediately. There must be some period where
7 the voting public can be educated. We must assume that
8 all voters will be able to easily understand their
9 obligations and take the time over the course of a year or
10 two -- or in this case, this bill, four years -- to go get
11 the appropriate identification.

12 Now, if you didn't have appropriate ID,
13 there's still alternative forms of documentation that can
14 be brought. So, I think that any reasonable person should
15 be able to -- given enough time be able to get the
16 appropriate documentation together because at some point
17 you have to go out and register to vote. At some point
18 you have to go find out where you're supposed to go vote,
19 and then you've got to go vote.

20 Q. There's a large stigma of the population that's
21 already been noted by several people that may not have
22 access to that or may not carry that on them or because of
23 various, you know, ways they get around, transportation,
24 you know, may not have that readily available and they may
25 go and vote and -- which is not unusual in the district



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1 that I represent. And, you know, by your answer you're
2 telling me that, you know, that you haven't gave as much
3 thought and consideration to reasonable measures that can
4 be taken that those people vote and that's what's missing
5 here today and everybody for this deal, that they are
6 looking at one side of the equation but they could care
7 less. Everyone else is invisible. Everyone else is an
8 invisible man and it doesn't matter what happens with
9 those folks.

10 A. Appears that you're asking -- you have a
11 hypothetical person who decides at 10 minutes before the
12 polls are going to close that, "Oh, I'm going to go vote."
13 I mean, you would presume that the person would
14 have registered in advance to vote.

15 Are you assuming the person did or didn't
16 register to vote in the first place?

17 Q. (By Alma Allen) -- that you need to go get a
18 driver's license. How much does a driver's license cost?

19 A. I never said you had to get a driver's license.

20 Q. ID.

21 A. One of the things is this bill would provide a
22 free ID and, if you don't get that free ID, there's other
23 materials that you can -- you can get to get your access
24 to vote. So, I don't understand -- there's so many outs
25 in this bill as it's currently written that it's really



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1 not even a photo ID law.

2 Q. Okay. What about senior citizens who live in a
3 house with -- they don't drive, but they live in a house
4 with their children so the light bill doesn't come to them
5 in their name? I don't know we would get an ID for them.

6 A. They may have a Social Security card. They may
7 have other documentation that they can use. I know that
8 the list of acceptable documents is not a brief list.

9 Q. Okay. So, if we were looking at the number of
10 people who needed to at this moment -- the law came into
11 effect at this moment, then the number of people who would
12 have to do something extra to be in a position to vote,
13 then usually I ask in meetings, "Do you have two forms of
14 ID right now and you can vote," and I find very few people
15 able to do that. But the research shows that 25 percent
16 of blacks don't have the proper ID, 25 percent right this
17 minute, to go and vote. Of course I'm supposing if you
18 put another hurdle out there, we would probably jump it,
19 too. It would be a little hard. We always have to jump
20 it. 16 percent of the Hispanics don't have an ID compared
21 to 8 percent of whites.

22 It's going to impact everybody. So -- and
23 18 percent of senior citizens don't have an ID right now.
24 So, any money you would spend -- think about it.

25 A. I think the Supreme Court actually sort of took



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1 that up and basically said that there are reasonable
2 expectations for a voter to exercise some responsibility
3 in ensuring a fair -- an election that has integrity
4 behind it is not a poll tax. I mean, it's -- I think
5 that's rhetoric that's stopped moving the debate forward.

6 Q. Are you talking about the 1964 --

7 A. No, I'm talking about the recent Supreme Court's
8 decision on photo ID laws.

9 Q. Oh, okay. I didn't think you were talking about
10 the poll tax.

11 A. My understanding, poll taxes are illegal.

12 Q. Not in the State of Texas. We haven't done that
13 yet. Every state has to ratify the Constitution of -- the
14 24th Amendment of the Constitution of the United States
15 which abolished poll tax. The state of Texas has not done
16 that yet. Neither has Mississippi, Florida, Alabama, and
17 a couple of other states. So, we're kind of behind the
18 eight ball already.

19 A. So, there's a poll tax in Texas right now?

20 Q. Officially on the books. It may come up if you
21 wanted to use it. If it's on the books, you can use it.

22 A. You made your point.

23 ALMA ALLEN: Thank you.

24 CHAIRMAN SMITH: Any other questions,
25 members? Mr. Mulhausen, I don't hear any. Thank you very



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1 much.

2 MR. MULHAUSEN: Thank you.

3 CHAIRMAN SMITH: Thanks for coming down.

4 MR. MULHAUSEN: Appreciate it.

5 CHAIRMAN SMITH: At this time, the chair
6 will call Jenigh Garrett, representing the NAACP Legal
7 Defense and Educational Fund to testify against Senate
8 Bill 362.

9 SPEAKER: Mr. Chairman, as she comes up, I
10 though you might make a clarification on the witness
11 affirmation form for the preceding witness, but he said
12 that he was not representing the Heritage Foundation that,
13 in fact, a company called Safe Texas was paying his way
14 here and that's who he's representing.

15 Are you familiar with Safe Texas?

16 CHAIRMAN SMITH: Yeah. No, I don't think
17 he said he's representing Safe Texas. It's certainly not
18 my understanding he's representing Safe Texas.

19 SPEAKER: They paid him to come here.

20 CHAIRMAN SMITH: Transportation.

21 SPEAKER: Oh, that doesn't count?

22 CHAIRMAN SMITH: I don't think that means
23 he's representing them.

24 SPEAKER: Okay.

25 CHAIRMAN SMITH: All right. How are you?



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1 Why don't you go ahead, Ms. Garrett, and state your name
2 and who you represent on the record?

3 JENIGH GARRETT: Jenigh Garrett. I'm
4 assistant counsel of the NAACP Legal Defense and
5 Educational Fund. It's my pleasure to be here. I thought
6 it was this afternoon, but that's fine.

7 (Inaudible) has been a pioneer in the
8 efforts to secure minority voter rights in the United
9 States, particularly those of African-Americans over many
10 decades. Part of the efforts are involved in nearly all
11 of the precedents in litigation. Voting rights, including
12 cases abolishing white primaries, creating and/or
13 defending the first majority African-American
14 Congressional and state legislative (inaudible) in several
15 states and eliminating various black voter participation
16 in office holdings. (Inaudible) has also worked across
17 the country and in Texas to educate voters, election
18 officials, and poll workers about the importance of
19 developing state election processes that empower voters
20 and ensure that all eligible voters have an opportunity to
21 exercise their vote through voter education, Prepare to
22 Vote, and our work in the National Election Protection
23 Program.

24 I'm pleased to offer testimony today
25 regarding SB 362, the legislative (inaudible) current



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1 identification procedures by requiring certain forms of
2 identification on election day, including photo
3 identification.

4 My testimony today will address how photo
5 identification laws work against the goals of achieving a
6 more inclusive democracy. In our experience, photo
7 identification laws restrict access to the political
8 process and discourage political participation.

9 Just to begin -- our democracy requires
10 electoral processes that encourage the participation of
11 all citizens and I think it's important that this body, as
12 it was doing today, carefully evaluate the impact that a
13 voting law will have on the entire electorate and the
14 impact that the law will have on minority voters in
15 particular.

16 Unfortunately, LDM has determined that
17 photo identification requirements undermine the 14th and
18 15th Amendments to the Constitution and the Voting Rights
19 Act. Photo identification requirements place onerous
20 burdens on racial minorities because they are marginalized
21 voters.

22 While the adoption of a photo
23 identification requirement might pose no significant
24 threat to the most mobile and affluent among the Texas
25 citizens, in the state the most marginalized population



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1 remain at the forefront of the legislature's analysis, and
2 I take two cases to really point this out that I found.

3 One was in a different context. Justice
4 Marshall on the Supreme Court discussing in a different
5 context about saving money, (inaudible) that a weekly
6 savings of less than \$2 -- \$2 even a burden. But no one
7 who has had close contact with the poor people can fail to
8 understand how close to the margin of survival many of
9 them are.

10 A study found, for example, may destroy
11 whatever savings that they have accumulated and by
12 eliminating that sense of security may destroy the sense
13 to save in the future. A pack or two of cigarettes may be
14 for them not able to purchase but a luxury indulged in
15 only rarely. The poor almost never go to see a movie,
16 which the majority seems to believe is almost weekly
17 activity. They have more important things to do with what
18 little money they have, like attempting to provide some
19 comfort for a gravely ill child -- and the quote goes on.
20 (Inaudible) the Missouri Supreme Court took that principle
21 and looked at it in the context of photo ID (inaudible)
22 who move beneath the poverty line, the \$15 they must pay
23 in order to obtain a birth certificate and vote, that's
24 \$15 that they must subtract from the meager ability to
25 feed, shelter and clothe their family.



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1 So, you have to look at that economic
2 burden in the context of race. And in 2005 Hurricane
3 Katrina in its aftermath demonstrated that rising poverty
4 can distort reality from many of our nation's most
5 marginalized citizens. Even there in the context of life
6 and death, (inaudible) were without cars. They were
7 without ATM cards. Many did not have a driver's license.
8 All of those instances (inaudible) remain part of our
9 democracy.

10 My testimony -- my written testimony goes
11 on to talk about depressed voter participation. I would
12 like to go on and just talk about our on-the-ground
13 observations since 2000 and in 2008 and particularly in
14 Indiana.

15 Most recently we observed the application
16 of the Indiana photo identification requirement during the
17 2008 primary and general election. LDF attorneys were on
18 the ground to monitor the election, to determine to the
19 extent to which African-Americans in Gary, Indianapolis
20 and surrounding communities in Lake and Marion Counties
21 were adversely impacted by the identification requirement.
22 LDF noted -- encountered difficulty casting ballots as a
23 result of Indiana's photo identification law. LDF
24 attorneys were informed by poll workers that voters who
25 did not submit qualifying identification were not always



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1 informed of their right to cast a provisional ballot.

2 Instead, some of those voters were turned away.

3 Our observations demonstrated that
4 provisional ballots, although designed to protect voters
5 in such situations did not provide an adequate safeguard.
6 In light of the reality that provisional ballots are not
7 always immediately available and even if poll workers
8 uniformly offer provisional ballots to voters who lack
9 valid government-issued identification, the extra step
10 required to count the ballot is a trip to the county seat
11 within 10 days of the election proved excessively
12 burdensome for many of the poor voters. For example, if a
13 voter without photo ID cast a provisional ballot in Gary,
14 they would have to travel to the county seat in Crown
15 Point in order to make sure that their ballot counted.
16 And when we went there, we learned that often these
17 ballots went uncounted.

18 I know there were questions about how many
19 were counted. It's my understanding that at least in Lake
20 County they are segregated so they know which ones are
21 photo ID ballots and which ones are other types of
22 provisional ballots. I'm not quite sure why the Secretary
23 of State wasn't able to get all that information and then
24 comply with the requirements to report it.

25 So, what this shows is that the provisional



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1 ballot option does not guarantee the rights of otherwise
2 eligible voters who are simply unable to satisfy the photo
3 identification requirement at the outset. And although
4 the Texas proposal does not require that additional trip
5 in order to make the ballot count, the exceptionally high
6 rate of rejected provisional ballots in Texas illustrates
7 that provisional ballots will not neutralize the burden of
8 photo identification requirements.

9 Based on our experiences, we really think
10 it's important for the legislature to really consider some
11 specific things about how any type of photo identification
12 law will impact voters along racial lines. We have a few
13 examples of data that's very informative in that regard --
14 the number of facilities, the distance between facilities
15 where individuals can obtain free identification for
16 voting purposes in minority communities as compared to
17 non-minority communities, the number of minority voters
18 without acceptable photo identification, the number of
19 minority voters with driver's licenses as compared to the
20 number without, the number of minority voters who are
21 transient and/or homeless and are less likely to have
22 photo identification or photo identification that matches
23 their voter registration address, the impact of the
24 requirement that voters present two forms of non-photo
25 identification on minority student voters at Texas



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1 universities, the impact of the requirement that voters
2 bring two forms of non-photo identification on the elderly
3 citizens in nursing homes, and the current levels of
4 rejected provisional ballots and the grounds for the
5 rejection in minority precincts in particular.

6 Voting is a fundamental right because it is
7 the basis of all other rights. It appears that a number
8 of states, including Texas, are now considering moving to
9 adopt laws that would effectively restrict or deny access
10 to the ballot box, and I would just like to say that the
11 course -- explicitly left open the possibility of future
12 challenges that demonstrate how identification laws burden
13 the rights of voters. Accordingly, Texas call for it as a
14 blanket endorsement of the photo identification.

15 Thank you. I'm open for any questions that
16 you may have.

17 Q. (By Representative Bonnen) Are they issued
18 most of the photo identification cards at the
19 universities?

20 A. Which universities are you talking about? In
21 Texas?

22 Q. In Texas. Do you know the extent to which that
23 occurs at state universities? If I go to University of
24 Texas, do I get a photo identification?

25 A. I do not know those specifics.



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1 Q. Prairieview University had a gentleman earlier
2 testifying about Prairieview University or any other
3 predominantly minority institutions, is there anything to
4 prevent -- to the extent that there is any college who
5 currently does not already have a photo identification for
6 their students, do you know of anything that would prevent
7 them from providing that?

8 A. Not to my knowledge, but I would like to talk
9 about our experience on the ground in Indiana. A
10 particular called us during the early voting period, an
11 African-American student attending a state university and
12 when she appeared to early vote, she was presenting her
13 state university ID and her driver's license and she was
14 there (inaudible), but it was her second, and she was told
15 that that was not adequate in order to vote, that she
16 would have to go and get a state ID from the Indiana DMV
17 down in Indiana and she was told by a white voter from New
18 Hampshire that all she had to do -- because the white lady
19 was explaining that she went down and she picked up her ID
20 by just turning in her New Hampshire ID. And went she
21 went down to the DMV, she was told that she would have --
22 she could get a driver's license, but she would have to
23 disqualify her Minnesota license, re-take and pass a
24 written driver's license test, provide proof of living on
25 campus, bring her original birth certificate and Social



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1 Security card and surrender her Minnesota license.

2 She wrote the instructions down and she
3 called her mother and asked her mother to help her get her
4 original copy of her birth certificate. They couldn't
5 FedEx it there in enough time because the early voting
6 closed on the weekend, couldn't get the FedEx delivery in
7 enough time for her to get down to the DMV to get the ID
8 that she needed so that she could actually cast her vote
9 on that day. The reason why the state ID wasn't counted
10 was because it didn't have an expiration date on it
11 because the state made a decision not to do that. So,
12 there's still students definitely impacted (inaudible).

13 Q. And I can't -- I can't -- I don't know the list
14 of documents that are acceptable in Indiana as
15 photographic documents -- I probably have some evidence
16 somewhere back here in the file -- but in the Senate bill
17 it does indicate that any valid identification card that
18 contains the person's photograph and is issued by an
19 agency, institution, or political subdivision of Texas is
20 certainly a valid ID. Along with, of course, any such
21 document issued by an agency that's an extension of
22 federal government.

23 So, I guess that raises a question with
24 regard to private universities, and I don't know if that's
25 otherwise addressed in here or not. But certainly with



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1 regard to public universities, it seems clear that to the
2 extent -- and I'm getting head shakes from the audience
3 that would seem to indicate that at least as I asked the
4 University of Texas, that is already done and you don't
5 know if there is any university that does not already
6 provide a photo identification for their students?

7 A. In the State of Texas?

8 Q. You don't know?

9 A. I do not know about Texas specifically, no. I do
10 believe, however, there's someone who could testify.

11 Q. I think that's -- I think that's a legitimate
12 point to be made to the extent that the students are --
13 you know, I suppose that's already an issue with regard to
14 the identification that's already required, but, you know,
15 if there is a significant problem I would really want to
16 know specifics in terms of the absence of photo
17 identification documents that are already available in
18 those universities rather than simply presuming the
19 problem. I would like to see some indication that it
20 can't be corrected simply by the university issuing a
21 photo identification to their students.

22 A. Well, I think there are additional issues in the
23 Senate bill that should give you pause with that
24 consideration in mind. Particularly, it seems as if the
25 specifics as far as whether it is simply presentation of



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1 the ID or if it's looking at the ID or the signature or
2 looking at the ID and the address and expiration date, et
3 cetera, is not addressed. Instead, the Secretary of State
4 will give training materials (inaudible) and so that the
5 election official will look at the -- have the discretion
6 to look at the non-photo identification and then make a
7 determination.

8 That leads to the question of the election
9 official who will be presenting the two forms of non-photo
10 identification. And again, some things may be resolved in
11 training materials. However, that stuff is not in the
12 bill right now and these are the types of things that we
13 see actually misapplied, particularly in minority
14 precincts. So, if you go to the polling place and when
15 they even present, let's say, in Indiana a photo ID
16 instead of -- they take the ID and they use it for a lot
17 of different things that they should not use it for and
18 they can't vote and unfortunately it's been used as a
19 mechanism to actually stop people from voting.

20 Q. Well, to the extent that that has occurred, I
21 presume the question is to what extent does this
22 legislation advance the likelihood of that occurring
23 because, again, this legislation doesn't change existing
24 law with regard to photo identification. It simply
25 changes the existing law with regard to non-photo



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1 identification. I can only imagine what things might
2 happen at the polls that you are concerned about, but I
3 presume that to the extent that that is possible it's
4 currently every bit as possible as it would be after this
5 legislation was passed.

6 Do you have any reason to doubt that?

7 A. Well, I have -- I guess, respectfully, I do
8 disagree a little bit about what the law is actually doing
9 and I could be corrected, definitely.

10 Q. Well, do you understand that current law gives
11 you the option of using a photo ID?

12 A. It's my understanding that what is required under
13 the current law is your voter's registration certificate.

14 Q. No. You don't have to have a voter registration
15 certificate. I never have a voter registration
16 certificate when I vote.

17 A. Then I was going to go on to say and that if you
18 do not have a voter registration certificate, you can
19 provide a photo ID. I think this law is different because
20 it creates two different classes of voters. It creates
21 two different classes of voters. It's saying, "Okay.
22 You're the photo ID voter. Just go through." And it's
23 saying, "Oh, you're the non-photo ID voter." Now I'm
24 going to take your ID, and I'm going to -- we don't know.
25 Who knows? I'm going to make a judgment and decision



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1 based on what you're giving me, and I'm going to say
2 whether you can cast that vote. I think that is my main
3 concern with this particular bill that is before us.

4 Q. The only change is that you go through that
5 process with regard to two documents rather than one.

6 A. It's not my understanding -- and again, I may be
7 corrected, but it's not my understanding that when you're
8 presenting your voter registration card it's subject to
9 some type of discretionary determination by the election
10 official.

11 SPEAKER: Mr. Chairman, I think what she's
12 referring to, if I can shed some light on it, I think
13 you're missing the difference between current law which is
14 a presentment standard and the Frazier bill, which is an
15 identify standard. And that's why it really does change
16 what current law is because the documents -- the language
17 in the Frazier bill says if your identity can be verified
18 from the proof presented, which is -- and if -- I'm just
19 offering this up for clarification purposes -- I think in
20 certainly my opinion potentially the opinion of the
21 witness, that's very subjective.

22 Q. (By Chairman Smith) So, if the standard coming
23 out of the House was a presentment standard rather than an
24 identity standard, then that would comfort you? In other
25 words, an objective black and white test, either have the



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1 document or you don't have it. You don't have part-time
2 workers making decisions on whether or not you look enough
3 like your picture to cast a regular ballot.

4 Does that comfort you as described?

5 A. I'm pausing on the word "comfort."

6 Q. You don't like using it, do you?

7 A. No.

8 CHAIRMAN SMITH: Okay. I won't make you.

9 Any other questions, members?

10 SPEAKER: Yes, sir. Thank you, Chairman.

11 Q. (By Speaker) Ms. Smith -- I am so sorry. I
12 imagine one of the things that gives you concern -- I
13 know. I know. I know -- let me ask it this way.

14 Does it give you concern that there's
15 language in the bill that says your identity must be
16 verified by the poll worker from the proof presented?

17 Does that give you concern?

18 A. Yes.

19 Q. And does it give you concern because there could
20 be address match problems for denying persons? For
21 example, on your photo ID it says you lived in your old
22 apartment, but you are on the rolls at your new place.

23 Do you think that it gives people wiggle
24 room to deny somebody for that reason?

25 A. I would agree with that. I have a given concern



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1 because different people are treated differently under
2 photo identification law. Everyone is not treated equally
3 under photo identification law. And whether it's the
4 address, whether it's the expiration date, whether it's
5 because as reported to us in Indiana a white voter enters
6 the polling place and they say, "Go ahead." (Inaudible)
7 this is also reported, and the black voter and that the
8 poll worker reported it because she observed it.

9 Q. Does it give you also concern that we had someone
10 testify about systematic disenfranchisement of African
11 Americans that continues presently in Waller County? Does
12 that add to your concern?

13 A. Not only -- yes, not only Waller County but that
14 discrimination persists throughout the State of Texas.
15 And I know it's uncomfortable, but it is true.

16 SPEAKER: Thank you.

17 Q. (By Chairman Smith) When you talk about not
18 having the right address or not having the right name, how
19 do I alleviate the concerns without eliminating
20 identification requirements of any kind?

21 A. I think that the real focus should be, one, on
22 making sure that the process is open to everyone equally
23 in that if there are concerns about the name and about the
24 address, about transients, homeless folks, then ID may not
25 be the right solution if this is really looking to not



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1 give additional mechanism for racial discrimination in
2 jurisdictions and elections that are racially charged.
3 This is the reality of voting, unfortunately for me, a
4 minority citizen. It may not be your experience
5 personally, but it is the experience of many minority
6 citizens.

7 Q. I'm going to kiddingly object as nonresponsive.
8 I don't -- if you're expressing a concern that the voters
9 might not have the right address or might not have the
10 right name -- and again, I have difficulty understanding
11 how that concern can be dramatically different in this
12 proposal than under current law, but how do I eliminate
13 that concern without eliminating identification
14 requirements of any kind?

15 A. For me, I would say that you can have an
16 affidavit requirement where a person can sign an affidavit
17 that they are who they say they are and vote a regular
18 ballot.

19 CHAIRMAN SMITH: All right. Any other
20 questions?

21 Q. (By Speaker) -- address the issue of the poor and
22 not wanting to place any -- anything on them that would
23 cause them to not be able to survive is what I'm thinking.
24 And I start thinking about the poorest among us who
25 would -- quite a few people without a bank account.



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